NAVAL WAR COLLEGE

INTERNATIONAL LAW SITUATIONS

WITH

SOLUTIONS AND NOTES

1908

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PREFACE.

The conference of officers at the Naval War College during the past summer having been largely occupied with the consideration of special subjects referred to it by the Navy Department, much less time than usual was available for the work in international law, with the result that the situations considered were fewer in number, and the time devoted to their discussion less, than usual.

The situations considered presented cases demanding a close study of the conventions of the Second Hague Peace Conference for their proper solution. The conventions mentioned will be found in the appendix.

Prof. George Grafton Wilson, of Brown University, the War College lecturer on international law, rendered valued assistance in framing the situations, and in their subsequent discussion.

The president of the college invites suggestions from officers of the service as to cases under the recent Hague conventions.

JNO. P. MERRELL,
Rear-Admiral, U. S. Navy,
President.

U. S. NAVAL WAR COLLEGE,
Newport, R. I., November 19, 1908.

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International Law Situations,

WITH SOLUTIONS AND NOTES.[a]

Situation I.

TERMINATION OF LIABILITY FOR BREACH OF BLOCKADE.

There is a war between the United States and State X, a South American State. A British tramp steamer, the *Warren*, which sailed from a Russian port with a cargo of wheat, runs the blockade maintained by the United States with reasonable efficiency before port M of State X. The *Warren* in ballast runs out through the blockade, sails to St. Thomas and takes a cargo for Bremen.

While the blockade of port M is still maintained, the commander of a war ship of the United States, knowing the facts, but not pursuing the *Warren*, comes upon the *Warren* on the North Sea, outside neutral jurisdiction.

What action should he take?

SOLUTION.

In accord with the prevailing American and British opinion and practice, and in the absence of instructions or other good reasons to the contrary, the commander of the war ship of the United States should capture and send the *Warren* to the nearest convenient prize court of the United States.

NOTES ON SITUATION I.

Historical.—The prohibition of trade with the enemy by proclamation has been common for centuries. There are proclamations of the thirteenth century containing such prohibitions. These proclamations were in the be-

[a] NOTE.—In the following international-law situations all States are supposed to have ratified the conventions of the Second Hague Peace Conference, unless the name of the State is mentioned. In such case attention is paid to the fact of ratification, failure to ratify, or conditional ratification.

ginning more frequently issued to the subjects of the state itself, later to all. Sometimes there was a mingling of what would now be covered by proclamations of blockade and neutrality proclamations.

Actual blockade, however, is one of the measures common in early maritime wars. The propriety of this measure has been generally recognized. The objections to the measure have usually arisen from attempts to extend the practice in such a manner that it unduly bears upon neutrals.

Dutch ordinance of 1630.—One of the earliest definite statements of the extension of the penalty for violation to the completion of the voyage is found in a resolution of the States-General of the United Provinces, bearing date of June 26, 1630:

A l'égard du second point, Leurs Hautes Puissances déclarent, que les vaisseaux & marchandises neutres seront aussi confisquez, quand il constera par les lettres de Cargaison, Connoissemens, ou autres Documens, qu'ils ont été chargez dans les ports de Flandres, ou qu'ils sont destinez d'y aller, *quand même on ne les auroit rencontrez que bien loin encore de là*, de sorte qu'ils pourroient encore changer de route & d'intention. *Ceci étant fondé sur ce qu'ils ont déja tenté quelque chose d'illicite, et mis en œuvre, quoi qu'ils ne l'ayent pas achevé, ni porté au dernier point de perfection*, à moins que les maîtres & les proprietaires de tels vaisseaux, ne fissent voir dûëment qu'ils avoient désisté de leur propre mouvement de leur entreprise & voyage destiné, & cela avant qu'aucun vaisseau de l'Etat les eût vû ou poursuivi, & que ceux-ci trouvassent la chose sans fraude: ce qu'on pourra juger en examinant la nature de l'affaire par des conjectures, les circonstances & l'occasion.

3. A l'égard du troisième point, Leurs Hautes Puissances déclarent, que *les vaisseaux revenant des ports de Flandres* (sans y avoir été jettez par une extrême nécessité) *& quoique rencontrez loin de-là dans le Canal ou dans la Mer du Nord*, par les vaisseaux de l'Etat, *quand même ils n'auroient pas été vûs ni poursuivis par ceux-ci en sortant delà*, seront aussi confisquez, *à cause que tels Navires sont censez avoir été pris sur le fait, tant qu'ils n'ont point achevé ce voyage*, & qu'ils ne se sont point sauvez dans quelque port libre, ou apartenant à un Prince neutre. Mais ayant été, comme il a été dit, dans un port libre, & étant pris par les vaisseaux de Guerre de l'Etat dans un autre voyage, ces vaisseaux & marchandises ne seront point confisquez; a *moins qu'ils n'ayent été en sortant des ports de Flandres suivis par les vaisseaux de Guerre, & poursuivis jusques dans un autre port que le leur, ou celui de leur destination, & qu'en sortant de nouveau de-là, ils ayent été pris en pleine Mer.* (Robinson, Collectanea Maritima, 165.)

Speaking of this rule of 1630, Kleen says:

La règle inaugurée en 1630, qui augmentait ainsi outre mesure la répression, fut bientôt abandonnée par les puissances excepté l'Angleterre. Des tribunaux et des publicistes anglais ont persisté—conformément à l'ancien système d'entendre la culpabilité aux deux côtés de l'occasion et du fait, à l'intention et à la destination du voyage avant et à sa continuation après—à faire valoir qu'une violation de blocus peut être poursuivie non seulement sur la place et au moment de l'acte, mais avant et après, durant tout le voyage du navire, quand même l'action ne serait pas encore consommée ou qu'elle serait déjà passée. Un navire, censé *vouloir* forcer un blocus, ou qui l'a depuis longtemps forcé, se trouve par cela *in delicto* durant tout le cours du même voyage. Il peut donc être pris, non seulement dès son départ pour les lieux bloqués et partout en chemin (*droit de prévention*), mais encore en revenant de ces lieux, à cause soit de l'entrée soit de la sortie, tant qu'il n'a pas encore atteint la fin définitive de son tour, et cela, lors même que l'infraction n'a pas été empêchée sur les lieux mais qu'elle a été tolérée par negligence, et qu'aucune poursuite n'a été faite immédiatement après l'action (*droit de suite*). Et, bien que le navire ne puisse, durant tout ce temps, être saisi dans un port ou une eau neutres, son entrée dans leurs limites n'exclut pas la poursuite ultérieure; celle-ci se fait même indépendamment des motifs du refuge dans les dites limites, n'importe que ce refuge ait eu lieu pour éviter la saisie ou par quelque autre raison: pas même un cas de détresse n'y fait exception. A la sortie, il peut être chassé et pris, malgré tous les arrêts en ports neutres, et même s'il n'a pas été poursuivi avant. La fin du voyage peut seule y mettre un terme. (I Kleen, La Neutralité, 638.)

British decisions.—The case of the *Frederick Molke*, decided in 1798 by Sir William Scott, involved both ingress and egress when a port was blockaded.

Several questions have been raised respecting the property, the previous conduct of the vessel, the legality of this sort of trade, and the actual violation of a blockade. I shall first consider the last question, because if that is determined against the claimant it will render a discussion of all other points unnecessary.

First, then, as to the blockade. These facts appear in the depositions of the master, "that on his former voyage he cleared out from Lisbon to Copenhagen, but was really destined to Havre if he could escape English cruisers; that he was warned by an English frigate, the *Diamond*, off Havre, not to go into Havre, as there were two or three ships that would stop him; but that he slipt in at night and delivered his cargo." It is therefore sufficiently proved that there were ships on that station to prevent ingress, and that the master knowingly evaded the blockade; for that a legal blockade did exist results necessarily from

these facts, as nothing farther is necessary to constitute blockade than that there should be a force stationed to prevent communication, and a due notice or prohibition given to the party.

But it is still farther material that this blockade actually continued till the ship came out again. It is notorious indeed that Havre was blockaded for some time, and although the blockade varied occasionally, it still continued; for it is not an accidental absence of the blockading force, nor the circumstance of being blown off by wind (if the suspension and the reason of the suspension are known), that will be sufficient in law to remove a blockade.

It is said this was a new transaction, and that we have no right to look back to the delinquency of the former voyage; and a reference is made on this point to the law of contraband, where the penalty does not attach on the return voyage. But is there that analogy between the two cases which should make the law of one necessarily or in reason applicable to the other also? I can not think there is such an affinity between them; there is this essential difference, that in contraband the offense is deposited with the cargo, whilst in such a case as this it is continued and renewed in the subsequent conduct of the ship.

For what is the object of blockade? Not merely to prevent an importation of supplies, but to prevent export as well as import, and to cut off all communication of commerce with the blockaded place. I must therefore consider the act of egress to be as culpable as the act of ingress, and the vessel on her return still liable to seizure and confiscation.

There may indeed be cases of innocent egress where vessels have gone in before the blockade, and under such circumstances it could not be maintained that they might not be at liberty to retire.

But even then a question might arise if it was attempted to carry out a cargo, for that would, as I have before stated, contravene one of the chief purposes of blockade.

A ship then, in all cases, coming out of a blockaded port, is in the first instance liable to seizure, and to obtain release the claimant will be required to give a very satisfactory proof of the innocency of his intention. In the present case the ingress was criminal and the egress was criminal, and I am decidedly of opinion that both ship and cargo, being the property of the same person, are subjecto to confiscation. (1 C. Robinson, Admiralty Reports, 86.)

In the case of the *Welvaart van Pillaw*, Sir William Scott rendered an early decision (July 19, 1799) in regard to a ship that had passed the blockading forces:

Another circumstance on which exemption is prayed, is, that she had escaped the interior circumvallation, if I may so call it, that she had advanced some way on her voyage, and therefore that she had in some degree made her escape from the penalties. I can not accede

to that argument; if the principle is sound that a neutral vessel is not at liberty to come out of a blockaded port with a cargo, I know no other natural termination of the offense but the end of that voyage. It would be ridiculous to say, "if you can but get past the blockading force you are free"—this would be a most absurd application of the principle. If that is sound, it must be carried to the extent that I have mentioned; for I see no other point at which it can be terminated. (*Vide*, Bynkershoek, Q. J. P., lib. i. ch. 11.) Being of opinion that the principle is sound, I shall hold that if a ship that has broken a blockade is taken in any part of that voyage, she is taken *in delicto*, and subject to confiscation. (2 C. Robinson, Admiralty Reports 128.)

In the case of the *General Hamilton* in 1805, Sir William Scott said in regard to the claim that the vessel had completed her voyage when compelled to enter a port in distress:

Another distinction is, that the vessel had terminated her voyage, and therefore that the penalty would no longer attach. It is true that she had been driven into a port of this country by stress of weather; but that is not described by the master as forming any part of the original destination, which is represented to have been to New Orleans. It is impossible to consider this action as any discontinuance of the voyage or as a defeasance of the penalty which has been incurred. (6 C. Robinson, Admiralty Reports 61.)

Dupuis' opinion.—Dupuis interprets the English practice as follows:

Les Anglais considèrent que le voyage entier, depuis le port bloqué jusqu'au port de destination, constitue une infraction ininterrompue aux devoirs de la neutralité, une violation flagrante et continue de blocus. D'où il suit que tout croiseur belligérant a qualité pour exercer le droit *de suite*, c'est-à-dire pour opérer la capture du navire forceur de blocus, en quelque point qu'il le rencontre; il n'est pas besoin, pour le prendre sur le fait, que le capteur appartienne à l'escadre de blocus; quel que soit son emploi, il peut et doit réprimer l'acte hostile qui se poursuit devant lui et qui ne prendra fin qu'à l'arrivée au port de destination.

Que faut-il entendre par le port de destination? La question est de grande importance; les Anglais la résolvent d'une manière rigoureuse. Le port de destination sera habituellement le port désigné dans la charte-partie comme le point final du voyage, sans qu'il y ait lieu de tenir compte des ports intermédiaires où le vaisseau pourrait relâcher, soit pour prendre ou laisser quelque cargaison, soit pour chercher un abri contre le mauvais temps; à plus forte raison, ne reconnaîtrait-on point la qualité de port de destination au port où la poursuite ou la crainte de l'ennemi engagerait le navire à demander

un refuge. Cette solution rigoureuse est d'ailleurs la conséquence logique de la conception anglaise du blocus; puisque le blocus interdit toute communication, tout voyage maritime des lieux bloqués à un port quelconque, l'infraction se mesure au mépris de cette interdiction; elle comprend donc tout le trajet qu'on se propose jusqu'au dernier port où doivent être déchargées les marchandises prises aux lieux bloqués. (Le Droit de la Guerre Maritime d'après les Doctrines Anglaises Contemporaines, p. 220.)

Pradier-Fodéré reviews the English position, citing the early practice of Holland:

Il est une autre fiction dont on constate l'existence, en Hollande, dans la première moitié du XVII^e^ siècle, dont Bynkershoëck a parlé comme d'un droit universellement reconnu, qui a trouvé un terrain très favorable en Angleterre ainsi qu'aux États-Unis d'Amérique, et qui est due à la haine jalouse des belligérants contre les neutres et au besoin de donner une sanction aux blocus fictifs: c'est ce qu'on a nommé le *droit de suite*. Ce prétendu droit repose, en effet, sur une fiction qui *fait considérer comme étant en flagrant délit, pendant toute la durée de son voyage de retour, jusqu'au port de sa destination, et pendant toute la durée de sa traversée*, tout navire de commerce neutre qui a violé de fait un blocus, soit en entrant, soit en sortant, alors qu'il n'avait pas le droit de sortir. Le soi-disant *droit de suite* est donc le droit que les belligérants s'arrogent de *poursuivre* les navires neutres de commerce violateurs d'un blocus régulier, et de les capturer, *jusqu'au port de leur destination définitive*, pendant toute la durée de leur traversée, en quelques parages qu'ils soient rencontrés. Le plus ancien acte dans lequel on en trouve la trace serait l'édit hollandais de 1630; il a été affirmé aussi par la convention anglo-hollandaise du 22 août 1689, lors du blocus fictif mis par ces deux Puissances sur les côtes de la France.

Le système de l'édit de 1630 prévoit deux situations différentes: 1° Les navires neutres de commerce, violateurs d'un blocus, n'ont pas été vus et poursuivis par les navires bloquants à leur sortie du port bloqué; 2° ces navires ont été vus et poursuivis. Dans la première hypothèse, ils peuvent être arrêtés en pleine mer (et seront confisqués) tant qu'ils n'ont pas atteint un port de leur pays, ou qu'ils ne se sont pas réfugiés dans quelque port neutre; dans la seconde hypothèse, leur entrée dans un port neutre ne les met pas à l'abri pour plus tard de la saisie en haute mer et de la confiscation: la poursuite continuera après leur sortie du port neutre, et ils ne seront à l'abri de la saisie que lorsqu'ils auront atteint leur port de destination, ou quelque autre port de leur pays. Les Anglais ont aggravé ce système. À leur point de vue, les navires violateurs sont saisissables et punissables aussi longtemps qu'ils n'ont pas atteint leur destination finale, sans qu'il faille distinguer s'ils ont été poursuivis ou non par les croiseurs des belligérants; le délit de violation continue jusqu'à l'arrivée

à cette destination, qui n'est autre que le port désigné par la charte-partie comme le point où doit se terminer le voyage, et n'est jamais effacé par une simple interruption dans le trajet, par une relâche dans un port intermédiaire, volontaire ou même forcée. La violation du blocus ne prend donc pas fin dès que les lignes ont été franchies avec succès; le voyage entier, depuis le port bloqué jusqu'au port de destination, constitue une infraction ininterrompue aux devoirs de la neutralité, une violation flagrante et continue du blocus; *tout croiseur belligérant faisant partie ou non de l'escadre bloquante*, a qualité pour opérer la capture du navire forceur de blocus, en quelque point qu'il le rencontre; *tout croiseur anglais, quel que soit son emploi*, peut et doit réprimer l'acte hostile qui se continue ainsi devant lui et ne prendra fin qu'à l'arrivée au port de destination. (8 Droit Int. Public, sec. 3143.)

Later in the same section Pradier-Fodéré says of the English and American practice:

Il est certain que le délit de rupture de blocus n'est pas un délit de droit pénal mais de droit international, c'est-à-dire un manquement au devoir de non-immixtion dans les hostilités, mais la définition du flagrant délit donnée par le code d'instruction criminelle français lui convient, et dans tous les cas un tel manquement à un devoir international ne peut autoriser la saisie qu'au moment où il se produit. Raisonnablement, même, comment admettre que le flagrant délit dure pendant tout un voyage, souvent très long, alors surtout que le coupable peut n'avoir été, ni vu, ni aperçu, au moment du délit, et que, pour avoir connaissance du fait, il a pu être nécessaire de monter à son bord afin d'en chercher la preuve dans ses propres papiers. Il ne peut y avoir de flagrant délit que dans le cas où le navire neutre, aperçu au moment de la violation du blocus, est saisi sur les lieux et au moment même, ou bien a été poursuivi *à vue* par un des bâtiments bloquants; dans ce cas le flagrant délit durera *aussi longtemps que la poursuite à vue pourra être continuée, et* cessera dès que le navire neutre aura cessé d'être *en vue*, ou dès qu'il sera entré dans un port neutre, ou non, quelconque. Voilà ce que suggèrent le bon sens et la connaissance des sains principes du droit. Telle est la doctrine qu'on peut qualifier de française, parce qu'elle est prédominante en France, mais qui a été adoptée généralement par les autres États de l'Europe continentale. Suivant la doctrine française, la tentative de franchir la ligne d'un blocus n'est punissable qu'au moment même où elle s'accomplit; les navires neutres de commerce qui s'en rendent coupables ne peuvent être saisis que s'ils sont surpris *en flagrant délit*, c'est-à-dire au moment même où ils franchissent la ligne après notification spéciale préalable: ou dans le port bloqué lorsque le bloquant a réussi à y pénétrer par la force ou par surprise, car les navires neutres qui s'y trouvent en violation du blocus n'ont jamais cessé d'être en vue et sous le coup de la poursuite; ou au moment où ces navires neutres se présentent pour sortir

du port dont ils ont forcé l'accès, ou dans lequel ils sont entrés sans délit de violation, mais dont ils ne peuvent sortir dans telles conditions déterminées. Si l'escadre de blocus n'a pu arrêter le navire coupable de violation, elle peut détacher un des vaisseaux qui la composent pour *poursuivre à vue* ce navire, et ce dernier ne sera valablement saisi que s'il est atteint par le vaisseau détaché de l'escadre bloquante avant d'être entré dans un port de son pays, ou dans un port neutre, car le droit de prise ne peut s'exercer dans les eaux neutres, et une fois entré dans un port de son pays, ou dans les eaux neutres, s'il en ressort il ne peut plus être question de flagrant délit. Les navires forceurs de blocus ne peuvent être capturés que par les bâtiments de l'escadre bloquante. D'après la doctrine française, en un mot, s'il agit de violation de blocus *par entrée*, le navire neutre qui viole un blocus *par entrée* au port bloqué ne peut être capturé que sur la ligne du blocus, ou sur poursuite commencée de la ligne du blocus et terminée, avec succès, avant l'arrivée du navire poursuivi, dans un port de son pays ou dans les eaux territoriales d'un État neutre; s'il est question de violation *par sortie*, cette violation prend fin dès que les lignes ont été franchies avec succès. Celui qui viole un blocus *par sortie* ne peut être pris qu'au moment ou il essaie de franchir les lignes d'investissement, ou au cours d'une poursuite commencée sur le champ et achevée avec succès en haute mer. Dans l'un et l'autre cas de violation la capture ne peut avoir lieu que par les navires de l'escadre de blocus. Cette doctrine si conforme à la nature des choses, au droit et à la raison, exclut, on le voit, le *droit de suite*, qui n'est qu'un vestige des blocus fictifs. La déclaration du congrès de Paris, du 16 avril 1856, et les traités conclus depuis cette époque par les Puissances maritimes, l'ont virtuellement supprimé en exigeant que les blocus soient effectifs.

American decisions.—In the case of the British-owned steamer *Memphis*, seized by the U. S. S. *Magnolia* in 1862, it was claimed that the *Magnolia*, which seized the *Memphis* for violation of the blockade of Charleston, could not legally make such a capture, because not a part of the blockading squadron and because the seizure was made at a point about 85 miles distant from the blockade.

The decision of Mr. Justice Betts was that:

> Any public vessel of the belligerent whose rights had been violated may be the agent or minister to apprehend the offender, though, by dexterity or superior speed, the culpable actor may escape arrest at the time or place of the perpetration of the wrong. * * *
>
> A vessel guilty of an unlawful trade with the enemy is liable to capture at any time during the voyage in which the offence is committed. (The *Memphis*, Blatchford Prize Cases, 260.)

As was said in the case of the *Olinde Rodrigues*, decided by the Supreme Court, May 15, 1899, our Government was originally of opinion that "commercial blockades in respect of neutral powers ought to be done away with; but that view was not accepted, and during the period of the civil war the largest commercial blockade ever known was established." (174 U. S. Supreme Court Reports, 510.)

Early American opinion.—The United States was inclined to follow the European law of nations in regard to the principle of blockade in the eighteenth and early nineteenth century. In 1797, in the instructions to the representatives to France, the Secretary of State said:

> Such extensive depredations have been committed on the commerce of neutrals, and especially of the United States, by the citizens of France, under pretence that her enemies (particularly Great Britain) have done the same things, it will be desirable to have it explicitly stipulated that the conduct of an enemy towards the neutral Power shall not authorize or excuse the other belligerent Power in any departure from the law of nations or the stipulations of the treaty; especially that the vessels of the neutral nation shall never be captured or detained, or their property confiscated or injured, because bound to or from an enemy's port, except the case of a blockaded port, the entering into which may be prevented according to the known rule of the law of nations. And it may be expedient to define a blockaded place or port to be one actually invested by land or naval forces, or both, and that no *declaration* of a blockade shall have any effect without such actual investment. And no commercial right whatever should be abandoned which is secured to neutral Powers by the European law of nations. (American State Papers 2 Foreign Relations 154.)

Mr. Madison, Secretary of State, in 1806 made a report to the President, mentioning other deviations from what he would at that time regard as international law.

> The most important of the principles interpolated into the law of nations, is that which appears to be maintained by the British Government and its prize courts, that a trade opened to neutrals by a nation at war, on account of the war, is unlawful.
>
> The principle has been relaxed from time to time, by order, allowing, as favors to neutrals, particular branches of trade, disallowed by the general principle; which orders have, also in some instances, extended the modifications of the principle beyond its avowed import.

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In like manner, the last of these orders, bearing date the 24th of June 1803, has incorporated, with the relaxation, a collateral principle, which is itself an interpolation, namely, that a vessel on a return voyage is liable to capture by the circumstance of her having, on the outward voyage, conveyed contraband articles to an enemy's port. How far a like penalty, attached, by the same order, to the circumstance of a previous communication with a blockaded port, would likewise be an interpolation, may depend upon the construction under which that part of the order has been, or is to be, carried into execution.

The general principle, first above stated, as lately applied to reexportations of articles imported into neutral countries from hostile colonies, or *vice versa*, by considering the reexportation, in many cases, as a continuation of the original voyage, forms another interpolation, deeply affecting the trade of neutrals. For a fuller view of this and some other interpolations, reference may be had to the documents communicated with the message to Congress of the 17th instant.

The British principle which makes a notification to foreign Governments of an intended blockade equivalent to the notice required by the law of nations, before the penalty can be incurred; and that which subjects to capture vessels, arriving at a port, in the interval between a removal and return of the blockading force, are other important deviations from the code of public law. (Ibid., p. 728.)

The United States in 1806 regarded certain of the practices of Great Britain, which have since been accorded recognition as justifiable by the American Government, as beyond the sanction of the law of nations:

In addition to what is proposed on the subject of blockades in the sixth and seventh articles, the perseverance of Great Britain in considering a notification of a blockade, and even of an intended blockade, to a foreign Government, or its ministers at London, as a notice to its citizens, and as rendering a vessel, wherever found in a destination to the notified port, liable to capture, calls for a special remedy. The palpable injustice of the practice is aggravated by the auxiliary rule prevailing in the British courts, that the blockade is to be held in legal force until the governmental notifications be expressly rescinded, however certain the fact may be that the blockade was never formed, or had ceased. You will be at no loss for topics to enforce the inconsistency of these innovations with the law of nations, with the nature of blockades, with the safety of neutral commerce, and particularly with the communication made to this Government by order of the British Government in the year 1804, according to which, the British commanders and vice-admiralty courts were instructed not to consider any blockade of the islands of Martinique and Guadaloupe as existing, unless in respect of particular ports which may actually be invested, and then not to capture vessels bound to such ports, unless they shall previously have been warned not to enter them. (American State Papers, 3 Foreign Relations 121, Letter of Madison to United States Ministers at London, May 17, 1806.)

That the United States did not accept the extreme doctrine of constructive notification, is seen in the instructions of the Secretary of the Navy to Commodore Preble early in the nineteenth century:

NAVY DEPARTMENT, *February 4, 1804.*

SIR: Your letter of the 12th November, enclosing your circular notification of the blockade of the port of Tripoli, I have received.

Sensible, as you must be, that it is the interest, as well as the disposition, of the United States to maintain the rights of neutral nations, you will, I trust, cautiously avoid whatever may appear to you to be incompatible with those rights. It is, however, deemed necessary, and I am charged by the President to state to you what, in his opinion, characterizes a blockade. I have, therefore, to inform you, that the trade of a neutral, in articles not contraband, cannot be rightfully obstructed to any port not actually blockaded by a force so disposed before it, as to create an evident danger of entering it. Whenever, therefore, you shall have thus formed a blockade of the port of Tripoli, you will have a right to prevent any vessel from entering it, and to capture for adjudication any vessel that shall attempt to enter the same, with a knowledge of the existence of the blockade. You will, however, not take as prize any vessel attempting to enter the port of Tripoli without such knowledge; but in every case of an attempt to enter, without a previous knowledge of the existence of the blockade, you will give the commanding officer of such vessel notice of such blockade, and forewarn him from entering; and if, after such a notification such vessel should again attempt to enter the same port, you will be justifiable in sending her into port for adjudication. You will, sir, hence perceive, that you are to consider your circular communication to the neutral Powers not as an evidence that every person attempting to enter has previous knowledge of the blockade, but merely as a friendly notification to them of the blockade, in order that they might make the necessary arrangements for the discontinuance of all commerce with such blockaded port.

I have the honor to be, &c., ROBERT SMITH.

Instructions in 1898.—The present understanding of the United States as to what constitutes reasonable efficiency and renders a blockade effective is seen in General Order 492, of June 20, 1898:

A blockade to be effective and binding must be maintained by a force sufficient to render ingress to or egress from the port dangerous. If the blockading vessels be driven away by stress of weather, but return without delay to their stations, the continuity of the blockade is not thereby broken; but if they leave their stations voluntarily, except for purposes of the blockade, such as chasing a blockade runner, or are driven away by the enemy's force, the blockade is abandoned or broken.

As the suspension of a blockade is a serious matter, involving a new notification, commanding officers will exercise especial care not to give grounds for complaints on this score.

General Order 492 also provides in regard to penalty that—

The liability of a blockade runner to capture and condemnation begins and terminates with her voyage. If there is good evidence that she sailed with intent to evade the blockade, she is good prize from the moment she appears upon the high seas. Similarly, if she has succeeded in escaping from a blockaded port she is liable to capture at any time before she reaches her home port. But with the termination of the voyage the offense ends.

French treaty provisions.—In a large number of treaties into which France has entered there is the following article:

Dans aucun cas un bâtiment de commerce appartenant à des citoyens de l'un des deux pays, qui sera expédié pour un port bloqué par l'autre état, ne pourra être saisi, capturé ou condamné si préalablement il ne lui a été fait une notification ou signification de l'existence ou continuation d'un blocus par les forces bloquantes ou par quelque bâtiment faisant partie de l'escadre ou division du blocus, et pour qu'on ne puisse alléguer une prétendue ignorance du blocus, et que le navire qui aura reçu cette intimation soit dans le cas d'être capturé s'il vient ensuite à se représenter devant le port bloqué pendant le temps que durera le blocus, le commandant du bâtiment de guerre qui fera la notification devra apposer son visa sur les papiers du navire visité, où sera faite la signification de l'existence du blocus, et le capitaine du navire visité lui donnera un reçu de cette signification, contenant les déclarations exigées par le visa.

The French practice of notification at the place of blockade is generally supported on the Continent.

Treaty agreements as to necessity of notification.—While the United States has maintained the doctrine of constructive notification arising from general notoriety, yet, in effect, action by a naval officer upon such a doctrine would be at risk, as a number of treaties require that proof that the neutral vessel knew of the blockade rests upon the captor. By the "most-favored-nation clause" such provision as was included in article 13 of the treaty of 1827 with Sweden, which is now in force, might become effective as regards other states:

Considering the remoteness of the respective countries of the Two High Contracting Parties, and the uncertainty resulting therefrom with respect to the various events which may take place, it is agreed that a merchant vessel, belonging to either of them, which may be bound to a port supposed, at the time of its departure, to be blockaded, shall not, however, be captured or condemned for having attempted, a first time, to enter said port, unless it can be proved that said vessel could, and ought to, have learned, during its voyage, that the blockade of the place in question still continued. But all vessels which, after having been warned off once, shall during the same voyage, attempt, a second time, to enter the same blockaded port, during the continuance of said blockade, shall then subject themselves to be detained and condemned. (Art. XVIII, Treaty between United States and Sweden, 1827.)

Opinions of text writers.—Wheaton states the doctrine generally accepted in the United States and in Great Britain:

The offence incurred by a breach of blockade generally remains during the voyage; but the offence never travels on with the vessel further than to the end of the return voyage, although if she is taken in any part of that voyage, she is taken *in delicto*. This is deemed reasonable, because no other opportunity is afforded to the belligerent cruisers to vindicate the violated law. (Int. Law, sec. 523.)

Pradier-Fodéré says of this interpretation:

La doctrine et la pratique anglaises ont été suivies par les États-Unis de l'Amérique du Nord. Wheaton, par exemple, trouve *raisonnable* que le navire neutre capturé à quel moment, dans quel temps que ce soit de son voyage de retour, soit considéré comme pris en flagrant délit, car, dit-il, il ne s'offre aucune autre occasion aux vaisseaux du belligérant de punir la violation du blocus. Cet auteur américain oublie que si le blocus est effectif, *ainsi qu'il doit l'être nécessairement pour être régulier et obligatoire*, il se trouvera toujours devant le point bloqué des navires de guerre assez proches pour apercevoir l'infracteur, le poursuivre à vue, l'arrêter et même le couler, ce qui rendra possible le châtiment sur les lieux mêmes et immédiatement, sans avoir besoin d'attendre des conjonctures ultérieures et incertaines. * * * Il ne peut y avoir de flagrant délit que dans le cas où le navire neutre, aperçu au moment de la violation du blocus, est saisi sur les lieux et au moment même, ou bien a été poursuivi *à vue* par un des bâtiments bloquants; dans ce cas le flagrant délit durera *aussi longtemps que la poursuite à vue pourra être continuée*, et cessera dès que le navire neutre aura cessé d'être *en vue*, ou dès qu'il sera entré dans un port neutre, ou non, quelconque. Voilà ce que suggèrent le bon sens et la connaissance des sains principes du droit. (8 Droit Int. Public, sec. 3143, p. 423.)

Gessner, who has given much attention to the right of blockade, says:

Si un vaisseau neutre, au moment où il cherche à violer un blocus, est poursuivi par un vaisseau de l'escadre bloquante et cherche à s'y soustraire par la fuite, le vaisseau belligérant aura incontestablement le droit de saisir le vaisseau délinquant s'il l'atteint avant que celui-ci soit entré dans un port neutre. Suivant la pratique anglaise, le belligérant conserverait ce droit aussi longtemps que le navire neutre ne serait pas arrivé à destination; ce dernier pourrait être saisi lorsqu'il quitterait son asile pour achever son voyage. Suivant l'opinion que nous croyons juste, au contraire, toute poursuite doit cesser du moment où le vaisseau chassé a atteint un port neutre. (Le Droit des Neutres sur Mer, 214.)

Fauchille, who has written learnedly upon the subject of blockade, says of the Anglo-American doctrine:

Cette doctrine anglaise, que les tribunaux américains ont aussi appliquée dans la guerre de la sécession, est au contraire absolument repoussée par les autres puissances. Ces États sont en effet d'avis qu'un navire coupable de violation de blocus peut seulement être atteint: 1° au moment où il traverse les eaux occupées par la nation bloquante; 2° dans la rade ou le port bloqué; 3° au moment où il se présente pour sortir; ils font toutefois cette réserve que si un vaisseau neutre, au moment où il cherche à violer un blocus, est poursuivi par un vaisseau de l'escadre bloquante et tente de s'y soustraire par la fuite, le vaisseau belligérant doit avoir le droit de saisir le vaisseau délinquant, s'il l'atteint avant que celui-ci soit entré dans un port neutre. Telle est l'opinion qui paraît prévaloir en France, en Allemagne et en Espagne. Telle est aussi la doctrine actuellement suivie par l'Italie * * *

De ces deux systèmes que nous venons d'exposer, lequel faut-il préférer? Voilà la question qu'il faut maintenant résoudre.

De ce qu'un fait matériel est nécessaire pour constituer la violation de blocus, il nous paraît logique de conclure que le navire neutre qui enfreint le blocus ne peut être capturé qu'au moment même où il consomme son délit. Alors seulement il y aura surprise du vaisseau en flagrant délit et garantie suffisamment sérieuse accordée aux neutres contre l'oppression des belligérants. Un pareil système ne diminue d'ailleurs en aucune façon les droits du bloqueur, et il ne lui enlève point les moyens de punir les infracteurs du blocus. En effet, s'il s'agit d'un blocus effectif, et nous n'en admettons pas d'autre, il se trouve toujours à l'entrée du port des batiments arrêtés et assez proches pour saisir le coupable ou pour le couler, s'il le faut, comme ils en ont le droit incontestable et incontesté. Ils doivent, du reste, l'apercevoir et le poursuivre à vue. Il est donc évident que le raisonnement de Sir W. Scott, que nous avons rapporté, ne peut avoir d'application

qu'aux blocus fictifs, et que par suite il est mal fondé, ces blocus n'étant pas reconnus par le droit international. Il nous paraît impossible d'admettre la fiction que le flagrant délit puisse exister pendant tout un voyage, souvent très long, alors que le coupable n'a été ni vu ni aperçu au moment du délit, et que, pour avoir connaissance du fait, il faut monter á bord du navire—navire neutre destiné à un port neutre—et chercher la preuve dans ses propres papiers. Admettre un pareil systeme, ce serait renverser toutes les idées reçues en matière criminelle: il n'y a et il ne peut y avoir flagrant délit que dans le cas où le navire, aperçu au moment de la rupture du blocus, a été poursuivi à vue par un des bâtiments bloquants; dans ce cas, le flagrant délit durera aussi longtemps que la poursuite à vue pourra être continuée; il cessera donc dès que le navire aura cessé d'être en vue ou dès qu'il sera entré dans un port ami ou neutre. (Du Blocus Maritime, p. 354.).

Creasy says:

That liability to seizure for breach of blockade continues so long as the blockade actually continues; and so long as the offence for which the seizure is made is considered to be continuing. The rule commonly laid down is that the capture must be effected while the vessel is *in delicto*. A vessel which has broken blockade by egress is considered to be *in delicto* until she has reached her port of destination and has completed her voyage. But as soon as a blockade is raised a vessel ceases to be liable to seizure for breach of blockade, although if already captured she is not to be released. (First Platform of Int. Law, sec. 619.)

Rosse, of the French navy, gave his opinion as follows:

Lorsqu'un navire a violé de fait un blocus, à quel moment doit-il être saisi pour être régulièrement punissable?

L'Angleterre et les États-Unis enseignent qu'ils sont punissables tant qu'ils n'ont pas atteint leur destination finale, qu'ils aient été ou non poursuivis par les croiseurs belligérants. Une relâche dans un port intermédiaire n'interrompt pas le droit de suite.

Cette doctrine est absolument repoussée par les autres puissances qui admettent qu'un navire coupable peut seulement étre atteint:

1°) Au moment où il traverse les eaux occupées par la nation bloquante.

2°) Dans la rade ou le port bloqué.

3°) Au moment où il se présente pour sortir.

Toutefois, en cas de poursuite à vue par le bloquant au moment de la rupture du blocus, elles admettent le droit de saisie jusqu'à l'entrée dans un port neutre.

Nous nous rangerons à ce système, et nous exigerons le flagrant délit pour que la capture soit régulière, mais il paraît impossible d'admettre que le flagrant délit puisse exister pendant tout un voyage,

alors que le coupable n'a été ni vu ni aperçu au moment du délit et que, pour avoir connaissance du fait, il faut monter à bord du navire et chercher la preuve dans ses papiers.

Ce que nous avons dit du navire qui, à sa sortie, est poursuivi par le bloquant, doit être entendu aussi de celui qui est entré dans la place investie et qui s'y trouve encore au moment où elle est prise. Ce navire, qui n'a jamais cessé d'être en vue, est toujours sous le coup de la poursuite légitime du bloqueur. (Guide International du Commandant de Bâtiment de Guerre, p. 259.)

According to the opinion of Kent:

If a ship has contracted guilt by a breach of blockade, the offence is not discharged until the end of the voyage. The penalty never travels on with the vessel further than to the end of the return voyage; and if she is taken in any part of that voyage, she is taken *in delicto*. (I Kent Commentaries, 151.)

Halleck mentions the possible cases in which egress from a blockaded port is allowed:

There are a number of cases in which the egress of the neutral vessel, during a blockade, is justified or excused, which we will enumerate. *First*, If the ship is proved to have been in the blockaded port when the blockade was laid, she may retire in ballast, for such egress affords no aid to the commerce of the enemy, and has no tendency to defeat any legitimate purpose for which the blockade was established. *Second*, If the egress was from physical necessity, arising from stress of weather, and the immediate need of water, or provisions, or repairs. *Third*, Where the entrance with a cargo was authorized by a *license*, such license is construed to authorize the return of the ship with a cargo. *Fourth*, Where a neutral ship, arriving at the entrance of a blockaded port, in ignorance of the blockade, is suffered to pass, there is an implied permission to enter, which fully protects her egress. But this implied permission does not, of necessary consequence, protect the cargo, for its owners may be guilty of a criminal violation of the blockade even where the ship is innocent. *Fifth*, A neutral ship, whose entry into the blockaded port was lawful, is permitted to return with her original cargo that has been found unsaleable, and reshipped during the blockade. *Sixth*, An equitable exception is allowed in favor of a neutral ship that leaves the port in the just expectation of a war between her own country and that to which the blockaded port belongs. In this case, she is permitted to depart, even with a cargo purchased from the enemy during the blockade, if the purchase was made with the funds of neutral owners, and the investment and shipment were probably necessary to save the property, in the event of a war, from a seizure and confiscation by the enemy. But it is not the mere apprehension of a remote and possible danger that will entitle a neutral ship to this exemption. To save the vessel and cargo from

condemnation, it must appear that there was a well-founded expectation of an immediate war, and consequently that the danger of the seizure and confiscation of the property was imminent and pressing. (2 Halleck Int. Law, Baker 4th ed., p. 236, ch. XXV, sec. 34.)

The above reasons would not excuse a merchant vessel which had deliberately violated the blockade by ingress.

Duer says that a neutral ship is not permitted to enter a blockaded port even in ballast—

Although an exception of this kind is allowed in the case of an egress, the reasons on which it is founded are not applicable to an inward voyage. The egress is necessary to restore the ship to the beneficial use of the owners, and can tend, in no degree, to aid the commerce that is meant to be prohibited; but there can be no necessity for sending a ship to a blockaded port, and the intention of procuring a freight is the only assignable motive of the voyage. It is a fair presumption that it is intended that she shall return with a cargo, purchased or prepared in the blockaded port, not that she shall return in ballast, thus rendering the entire expedition a fruitless expense, nor that she will remain useless in port during the uncertain period that the blockade may continue. (1 Insurance, 671.)

According to the opinion of Bluntschli:

Les navires neutres ne peuvent être capturés en dehors des eaux bloquées, même lorsq'ils ont réussi à forcer le blocus. (Bluntschli, Droit International Codifié, sec. 836.)

General Davis says of violation of blockade:

When the offence is one of egress the penalty continues until the vessel reaches the territorial waters of a neutral state. (Elements of Int. Law, p. 476.)

In regard to the duration to the return to the home port of the liability to penalty for violation of blockade, Kleen says:

C'est à juste titre que bon nombre de publicistes modernes condamnent sévèrement encore cette dernière manière d'augmenter indûment la répression. Leurs raisons sont pour la plupart les mêmes que celles alléguées plus haut contre l'extension de la culpabilité elle-même au delà de l'acte et de son moment à savoir principalement: que l'état juridique du blocus est essentiellement local; que sa compétence ne peut pas être étendue au delà de cet état, à d'autres occasions et à d'autres places; qu'une poursuite qui *précéderait* l'acte, fondée sur la présomption toujours incertaine d'intentions ou de destinations, tomberait dans l'arbitraire, et que celle qui *succéderait*, notamment au refuge du navire coupable dans un port neutre, prolongerait le droit de la guerre au delà de ses limites et menacerait la sécurité générale.

Aussi ces publicistes s'accordent-ils à reconnaître que, de même qu'un blocus ne peut être violé que sur ses lieux et qu'il ne peut pas l'être par le voyage, de même la violation ne peut être poursuivie qu'en flagrant délit, ni avant ni après. Avant, aucune mesure quelconque ne peut légalement être prise contre le navire suspect; et après, aucune mesure ne peut être prise autre que celles qui sont motivées par des circonstances et qui sont censées propres à prolonger la phase du fait, à savoir les saisies soit dans le port même, soit sur la place à la sortie de là, soit enfin sur la haute mer et dans les eaux des belligérants à la seule condition que la poursuite ait commencé au moment du fait et sur la place, et que sa continuation aux dits lieux n'ait pas été interrompue mais puisse être considérée comme une simple suite de l'action dirigée contre le délit pris sur le fait. Au contraire, un navire déjà échappé, dont l'action interdite n'a pas été empêchée ni attaquée sur la place du blocus, et qui n'a pas non plus été poursuivi immédiatement, ne peut pas être attaqué après coup et ailleurs, fût-ce pendant le même voyage. Et une fois dans les ports ou les eaux neutres, il est pour toujours hors de portée de toute poursuite, indépendamment de la fin du voyage. (I Kleen, La Neutralité, p. 639.)

Russian regulations.—The Russian prize regulations of March 27, 1895, Article 11, provides that:

Merchant vessels of neutral nationality are subject to confiscation as prizes in the following cases: * * * (2) when the vessels are caught violating a blockade and it is not proven that the establishment of the blockade remained unknown to the masters.

In the instructions for the carrying out these regulations it is stated that—

37. Vessels subject to detention are the following: * * * (2) Neutral merchant vessels. * * * (3) If they are caught violating an actual and declared blockade.

Japanese regulations.—The Japanese regulations of March 7, 1904, in general follow English precedents, and give the belligerent more liberty than is customary under continental practice.

ART. XXI. Blockade is to close an enemy's port, bay, or coast with force, and is effective when the force is strong enough to threaten any vessels that attempt to go in or out of the blockaded port or bay or to approach the blockaded coast.

Temporary evacuation of a blockaded area by a squadron or man-of-war on account of bad weather or to attain the object of the blockade does not interfere with the effectiveness of the blockade.

ART. XXV. In case the master of a vessel receives warning direct from an imperial war vessel, or it is clear that he knows of the existence

of the blockade from official or private information or from any other source, such master shall be considered to have received actual notice of the blockade.

ART. XXXVII. Any vessel that comes under one of the following categories shall be captured no matter of what national character it is: (1) Vessels that carry persons, papers, or goods that are contraband of war. (2) Vessels that carry no ship's papers, or have willfully mutilated or thrown them away, or hidden them, or that produce false papers. (3) Vessels that have violated a blockade.

Consideration at The Hague, 1907.—At the Second Peace Conference at The Hague in 1907, the Italian delegation submitted the following proposition concerning blockade:

1. Le blocus pour être obligatoire doit être effectif, déclaré et notifié.

2. Le blocus est effectif lorsqu'il est maintenu par des forces navales de guerre suffisantes pour interdire réellement le passage, et stationnées de manière à créer un danger évident pour les navires qui voudraient le tenter.

Le blocus n'est pas considéré comme levé si le mauvais temps a forcé les navires bloquants à s'éloigner momentanément de leur station.

3. La déclaration de blocus doit déterminer le moment précis du commencement du blocus, ses limites par longitude et latitude, et le délai dans lequel la sortie du port est permise aux navires neutres entrés avant le commencement du blocus.

4. La déclaration doit être notifiée aux autorités de la place bloquée et aux Gouvernements des Etats neutres.

Si cette notification n'a pas eu lieu, ou si le navire approchant du port bloqué prouve qu'il n'avait pas connaissance du blocus, la notification doit être faite au navire même, par un officier de l'un des bâtiments formant le blocus, et inscrite sur les papiers de bord.

5. Un navire ne peut-être saisi comme coupable de violation de blocus qu'au moment où il tente de franchir les lignes d'un blocus obligatoire.

6. Il est permis aux navires d'entrer dans le port bloqué en cas de détresse constatée par le commandant du blocus.

7. Le navire saisi pour violation de blocus pourra être confisqué ainsi que sa cargaison, à moins que le propriétaire de celle-ci ne prouve que la tentative de violation du blocus a été commise à son insu.

The United States delegation proposed the following amendments:

In Article 3 strike out the words "par longitude et latitude."

Substitute for Article 5, as submitted by the Italian delegation, "Tout navire qui, après qu'un blocus a été dûment notifié, fait voile pour un port ou une place bloqués, ou qui essaie de forcer le blocus, peut être saisi pour violation de blocus."

The delegation from Great Britain proposed:

In Article 2 to substitute the word "évident" for "réel."

To follow in Article 3 the amendment suggested by the American delegation.

In Article 4 to substitute for the words "le navire approchant" the words "un navire approchant."

In Article 5 to follow the amendment suggested by the American delegation.

Lieutenant-Colonel van Oordt, of the Netherlands delegation to the Hague Conference of 1907, said of the American doctrine of liability to capture throughout voyage for violation of blockade:

L'extension du droit de capture, contenue dans la proposition américaine, n'est en effet autre chose que l'application de la pratique des blocus fictifs aux blocus effectifs. Accorder au belligérant le droit de saisie sur les navires, qui font voile pour un port bloqué, avant qu'ils n'aient tenté d'y entrer, c'est ajouter au danger imminent du passage de la ligne du blocus (le caractère essentiel du blocus effectif) le danger d'être saisi en pleine mer; c'est au fond: étendre le blocus pour ainsi dire partout en pleine mer où il ne peut pas être effectif; c'est enfin soumettre la saisie au hasard d'une rencontre avec un croiseur de l'Etat bloqueur; ce qui est, d'après les évènements qui ont abouti à la Déclaration de Paris de 1856, en contradiction avec l'idée même du blocus effectif. (4e Commission, le 2 août, 1907.)

Use of tramp steamers.—The importance of coming to some decision as to the possible treatment in time of war of what are commonly called "tramp steamers" is evident from the following testimony given before the British Royal Commission on Supply of Food and Raw Material in Time of War in 1904. The conditions of the mercantile marine of the world have remained relatively unchanged since that time, so that the testimony may be taken as applicable to the present time. The chairman of the commission, Lord Balfour, examining Mr. Walter Runciman, M. P., elicits the following:

10259 (chairman). I understand you are a member of the firm of Walter Runciman & Co., of Newcastle-on-Tyne and London, and that you are a part owner and one of the managing directors of a group of companies which own 28 cargo vessels of what are known as the tramp class, varying in size from 4,000 to 6,000 tons dead weight each.—That is so.

10260. I suppose they are engaged on their homeward voyages in carrying raw material and grain to British and northern continental ports, are they not?—Almost entirely.

10261. As a matter of fact, during the last year you did carry over 1,100,000 quarters of grain, of which a considerable portion came to British ports?—Yes; a very large amount of it did.

10262. You are here in consequence of our invitation to you to tell us what you can, not so much as the representative of any association, but as an owner of this class of vessels?—I come purely as a typical tramp owner—not as being authorized by any association.

10263. You know, of course, the circumstances of the British mercantile marine; I understand that, speaking roughly, of the 7,000 steam vessels of any considerable size flying the British flag, about 1,500 are liners and the remainder are tramps?—Yes.

10264. Can you put those figures into tonnage?—I should say that about one-half of the tonnage of the British mercantile marine is tramp tonnage. Of course, that is an approximate figure, but it is arrived at after consultation with the officials of the Shipping Federation and of the Chamber of Shipping, who are the great authorities.

10265. Classified according to their trading, what should you say about these tramps?—It is very difficult to say exactly where they are employed, but I should think that about one-third of them are engaged in the carriage of grain.

10266. Would you say that the smaller vessels would be in the north of Europe, that the medium-sized vessels would be in the Black Sea grain trade, and that the larger boats load homeward from the East, Argentine, and America?—That is approximately correct.

10267. At what kind of average speed do they run?—They are practically 9-knot boats. At the outside under pressure they might get up to 11½ knots, but not beyond that.

10268. I suppose they are well loaded up when they come home?—They have practically all full cargoes; tramp steamers can not afford to come with part cargoes.

10269. Of course, with full cargoes they would not be able to go for any length of time at their maximum speed?—No; they go on an average at a 9-knot speed at the present time, because it happens to be the most economical. If they were to increase their speed to 11½ knots that would run away with such an immense amount of coal as to diminish their cargo capacity below a profitable level.

10270. In a vessel of that class the advantage of adding a knot an hour to its normal speed is out of proportion to the cost of doing so, is it not?—Yes; I should say that the average 6,000-ton tramp, which is a fair sample to take, would burn about 20 tons a day going at 9 knots; if she were forced up to 10 knots she would probably burn 25 tons a day, and if she were forced up to 11 knots about 32 or 35 tons a day.

10271. Which would very nearly run away with all the profit, in addition to the impossibility of a cargo steamer carrying so much coal?—Yes.

10272. Assuming for the moment—because that is one of the problems which we are endeavoring to consider—that we were at war with a continental power strong at sea, should you anticipate that the apprehensions of captures would lead to a cessation of the tramp steamers plying their voyages?—I do not think that that would be so. I think tramp-steamer owners, on the whole, are quite sporting, and that they are prepared to take risks. They would be paid large freights and would naturally endeavor to take advantage of them.

10273. Then you agree with those witnesses who have told us that the freights would be large?—Yes; they might run up to anything; it depends entirely on the risk of capture.

10274. That would be, of course, largely on account of the cost of insurance?—Yes; it would be almost entirely on account of that. There would naturally be a certain amount of excitement among merchants, and a great desire to get cargoes of food and raw materials into this country. That would, of course, have its effect on the freight market, but the main addition would be owing to the cost of insurance.

10275. Even assuming that we maintained command of the sea, do you think that freights would quickly be, as you suggest, tripled or quadrupled?—I think they might quite easily; one or two captures would have a most exciting effect on the insurance market, and as we have seen already that would inflate the cost of carriage enormously. A 10-per-cent insurance rate, for instance, would have a very considerable effect on freights.

10276. Assuming for the moment what is a most important consideration for us that the Atlantic was infested by one or two commerce destroyers of some hostile power, have you the power of modifying your routes from north to south, and so on?—Certainly; we can go anywhere. We do so now; for instance, in the summer months we send our vessels across the Atlantic north about, and in the winter months we send them south about.

Bearing of the Hague conventions.—There is no question that the *Warren* had knowledge of the existence of the blockade through which she had passed on entering and within which she had been while unloading:

A vessel being in a blockaded port is presumed to have notice of the blockade as soon as it commences. This is the settled law of nations. (2 Black, Prize Cases, 635.)

According to Convention XII, relative to the establishment of an international prize court, a case similar to the one suggested by this situation might easily pass to this court. The convention provides:

ARTICLE I. The validity of the capture of a merchant ship or its cargo is decided before a prize court, in accordance with the present convention when neutral or enemy property is involved.

ART. II. Jurisdiction in matters of prize is exercised in the first instance by the prize courts of the belligerent captor.

The judgments of these courts are pronounced in public or are officially notified to parties concerned who are neutrals or enemies.

ART. III. The judgments of national prize courts may be brought before the international prize court: (1) When the judgment of the national prize courts affects the property of a neutral power or individual. (2) When the judgment affects enemy property and relates to—

(*a*) Cargo on board a neutral ship.

(*b*) An enemy ship captured in the territorial waters of a neutral power when that power has not made the capture the subject of a diplomatic claim.

(*c*) A claim based upon the allegation that the seizure has been effected in violation either of the provisions of a convention in force between the belligerent powers, or of an enactment issued by the belligerent captor.

The appeal against the judgment of the national court can be based on the ground that the judgment was wrong either in fact or in law.

ART. IV. An appeal may be brought: (1) By a neutral power, if the judgment of the national tribunals injuriously affects its property or the property of its nationals (article 3, 1), or if the capture of an enemy vessel is alleged to have taken place in the territorial waters of that power (article 3, 2, b). (2) By a neutral individual, if the judgment of the national court injuriously affects his property (article 3, 1), subject, however, to the reservation that the power to which he belongs may forbid him to bring the case before the court, or may itself undertake the proceedings in his place. (3) By an individual subject or citizen of an enemy power, if the judgment of the national court injuriously affects his property in the cases referred to in article 3; (2) except that mentioned in paragraph (*b*).

ART. V. An appeal may also be brought on the same conditions as in the preceding article by persons belonging either to neutral states or to the enemy, deriving their rights from and entitled to represent an individual qualified to appeal, and who have taken part in the proceedings before the national court. Persons so entitled may appeal separately to the extent of their interest.

The same rule applies in the case of persons belonging either to neutral states or to the enemy who derive their rights from and are entitled to represent a neutral power whose property was the subject of the decision.

ART. VII. If a question of law to be decided is covered by a treaty in force between the belligerent captor and a power which is itself or whose subject or citizen is a party to the proceedings, the court is governed by the provisions of the said treaty.

In the absence of such provisions the court shall apply the rules of international law. If no generally recognized rule exists, the court shall give judgment in accordance with the general principles of justice and equity.

ART. VIII. If the court pronounces the capture of the vessel or cargo to be valid they shall be disposed of in accordance with the laws of the belligerent captor.

If it pronounces the capture to be null, the court shall order restitution of the vessel or cargo, and shall fix, if there is occasion, the amount of the damages. If the vessel or cargo have been sold or destroyed, the court shall determine the compensation to be given to the owner on this account.

If the national court pronounced the capture to be null, the court can only be asked to decide as to the damages.

ART. XIV. The court is composed of 15 judges—9 judges constitute a quorum.

A judge who is absent or prevented from sitting is replaced by the deputy judge.

ART. XV. The judges appointed by the following contracting powers—Germany, the United States of America, Austria-Hungary, France, Great Britain, Italy, Japan, and Russia—are always summoned to sit.

The judges and deputy judges appointed by the other contracting powers sit by rota, as shown in the table annexed, to the present convention; their duties may be performed successively by the same person. The same judge may be appointed by several of the said powers.

If there is to be an international prize court, then such differences in practice and theory as exists between the French and English in regard to the duration of liability of penalty for violation of blockade would be properly under consideration. As the Hague Convention in regard to an international prize court has received general approval its ratification is probably merely temporarily delayed. According to the report of the United States delegates:

The purpose then of the convention is to substitute international for national judgment and to subject the decision of a national court to an international tribunal composed of judges trained in maritime law. It was not the intention of the framers of the convention to exclude a judge of the captor's country whose presence on the bench would insure a careful consideration of the captor's point of view, but to make the decision of the case depend upon strangers to the controversy who, without special interest and national bias, would apply in the solution of the case international law and equity. The national judgment becomes international; the judgment of the captor yields to the judgment of the neutral, and it can not be doubted that neutral powers are more likely to guard the rights of neutrals than any bench composed exclusively of national judges. (Instructions to and Report from the Delegates of the United States, Senate Doc. No. 444, p. 45, 60 Cong. 1st sess., 1908.)

Termination of voyage.—Termination of voyage is sometimes held to be when a vessel has moored in a port twenty-four hours in safety. (Lidgett *v.* Secretan, English Common Pleas, January 24, 1870.)

Port of discharge is often held as termination of voyage.

As was said in the case of the *Lucy* in 1904, the term "voyage" has no fixed or technical meaning. It may refer to the outward voyage or to the homeward voyage or to the round voyage. (39 Court of Claims, 221.)

The term "voyage" in maritime law has received various interpretations. The common meaning is "the passing of a vessel from one place, port, or country to another." The term is further defined as "the enterprise entered upon, and not merely the route" (113 Mass. Reports, 326), the time during which the vessel is engaged in performing the contract contained in the charter. (*The Carron Park*, 15 Probate Div., English Law Repts., 1890, p. 203.) Voyage is sometimes said to be completed on discharge of cargo.

Voyage may be defined arbitrarily by domestic law, e. g., a colonial voyage means a voyage from any port whatever in a British possession, other than British India and Hongkong, to any port whatever, where the distance between such ports exceeds 400 miles, or the duration of the voyage, as determined under this part of this act, exceeds three days. (18 and 19 Vict., c. 119, s. 95.)

In the case of the *Warren* the entrance to and departure from blockaded port M, of State X, was liable to penalty as parts of a single venture. This venture was, however, complete when the *Warren* entered St. Thomas and began to load under a new charter and proceeded bona fide to Bremen. The fact that the *Warren* was in the North Sea bound for Bremen is evidence that this is a new venture in no way connected with the violation of blockade. The *Warren*, under present law, could probably claim that her voyage to and from port M ended when she reached St. Thomas and that she was therefore exempt.

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Résumé.—The ordinary British statement, in which after a time the United States concurred, as to the liability of a vessel which had violated a blockade, was that the vessel might be captured at any time before the end of the return voyage. This rule was formulated with reference to the early commerce by sailing vessels, when the duration of a voyage was comparatively easily determined.

The question as to what constitutes a voyage at the present time, or as to even what constitutes a return voyage, is one upon which there is difference of opinion in maritime law. The introduction of steam vessels has materially changed the methods of transportation. A tramp freight steamer often does not know its course beyond its immediate destination and may never return to the port from which it starts. Such a steamer perhaps takes a cargo from its port of registry, which may be Liverpool, to Constantinople, thence to Bombay, to Yokohama, to San Francisco, to Rio, to Cape Town, etc.

While the General Order 492, issued by the Navy Department of the United States, provides that if a vessel "has succeeded in escaping from a blockaded port she is liable to capture at any time before she reaches her home port," it also says "but with the termination of the voyage the offense ends," and "the liability of a blockade runner to capture and condemnation begins and terminates with her voyage." There is a general opinion unfavorable to this doctrine outside of Great Britain and the United States, which opinion would limit the right of capture to the period of the offense or attempted offense of violation of the blockade and the period during which the blockading force is actively endeavoring in a legitimate manner to bring the vessel within its power.

There would be no question as to the right of a blockading force to pursue a vessel which had violated or attempted to violate a blockade upon the high sea, within belligerent waters, or under certain circumstances a pursuing vessel might run within the marginal waters of a

neutral state provided no hostile act is committed there. In no case, however, is the vessel liable beyond the completion of her voyage. It is held that a vessel which has entered a blockaded port and is subsequently taken when the port is taken, the blockade being uninterrupted, is liable to penalty because the blockading force has continuously endeavored to make the capture of the port and all offending shipping.

The application of the extreme claims of Great Britain and the United States greatly extends the area of capture of neutral vessels. The present tendency is to restrict this area unless the vessel has incurred guilt, by actual participation in the hostilities, as by unneutral service. The *Warren* had engaged in a commercial venture involving risk, and the risk should come to an end when she has completed the venture, which would seem to be at the time when she had passed out of the field of naval operations—i. e., when she was no longer in danger from the blockading force. This danger would continue so long as the merchant vessel is pursued by a vessel of the blockading fleet and, if pursued, until she completes her voyage.

The maintenance of the present doctrine of Great Britain and the United States would doubtless incline the international prize court to the opinion that such an act as that of the *Warren* in entering and departing from the blockaded port is evidence of doubt of the effectiveness of the blockade of port M. It seems to follow that unless there is to be a much stricter interpretation of what constitutes a blockade, there must be a limitation of the extreme claims to liability to capture of a vessel like the *Warren* till she has reached a home port.

As a matter of policy, also, the United States, usually neutral, following its traditional attitude, would favor the abolition of this extreme claim.

As the United States has not adhered to the convention allowing prize to be sent into neutral ports pending adjudication, there would be the further practical difficulty of sending the *Warren* to a United States court for trial. The distance would be great, the liability for the delay

and injury to the cargo that had in no way been involved in the violation of blockade should be considered, and exactly what constitutes a voyage is not certain.

The treatment of the *Warren* under circumstances set forth in this situation would not be the same under the policy of different States.

The general tendency of American policy since the middle of the nineteenth century has been in the direction of a justification of capture of such a vessel as the *Warren*. If the flag of the *Warren* had been that of a neutral State other than Great Britain there would be danger that international complications might arise even under present laws and practice.

The case of the *Warren* would be an extreme case under the American and British practice, owing to the uncertainty as to what constitutes a port of destination.

All circumstances should therefore be very carefully considered, involving such as time since the violation of the blockade, distance from the blockaded port, evident good intentions of the suspected merchantman, etc., and in case of doubt the vessel should be sent in for decision by the prize court.

Under the strictest interpretation of the most extended claims of Great Britain and the United States the *Warren* would be liable to capture under the circumstances set forth in Situation I.

CONCLUSION.

In accord with the prevailing American and British opinion and practice, and in the absence of instructions or other good reasons to the contrary, the commander of the war ship of the United States should capture and send the *Warren* to the nearest convenient prize court of the United States.

Situation II.

THE TWENTY-FOUR HOUR RULE.

There is a war between States X and Y. Other States are neutral. Three war ships of State X have entered port N of the United States, which has proclaimed the twenty-four hour rule. Within twenty-four hours a war ship of State Y enters port N. The three war ships of State X sail within the time allowed. The war ship of State Y sails twenty-five hours later. Soon after leaving port N, the war ship of State Y discovers several war ships of State X outside the three-mile limit, but near. The war ship of State Y returns to port N.

How should this war ship be treated?

SOLUTION.

The war ship of State Y should be allowed to return to the neutral port without necessarily incurring liability to internment, unless it is evident that this return is to escape military consequences to which this war ship has, through her own action, become subject after departure from port N.

NOTES ON SITUATION II.

Historical.—The rule that twenty-four hours, or a night and a day as it is sometimes stated, shall elapse between the departure of vessels of opposing belligerents from a neutral port seems to have been used in 1759 by Spain. War ships were at that time sometimes allowed to depart without this delay, provided the commander would not take advantage of the privilege to commit hostilities. The delay was, however, imposed on privateers. The "twenty-four hour rule" was later extended and quite generally adopted, with the additional requirement that the vessel must not remain longer than twenty-four hours unless under exceptional circumstances. This supplementary requirement was instituted largely as a result of the action of the U. S. S. *Tuscarora* which, in 1862 sailing out of Southampton Water before the Con-

federate cruiser *Nashville*, would return within the twenty-four hours, during which the *Nashville* would be obliged to remain and would again sail just before the *Nashville* would be able to sail. There have grown up various modifications to the original "twenty-four hour" interval between sailings with a view to making it a reasonable and workable rule. Vessels have been required to sail at the expiration of twenty-four hours. Their time of sailing has been determined by the order of arrival, etc.

Early regulations.—The action of Spain in 1759, as shown in the correspondence, was to introduce a delay between the sailing of vessels of the opposing belligerents sufficient to remove liability to conflict in the immediate neighborhood. (Ortolan, Diplomatie de la Mer, L. III, c. VIII.)

Articles 3, 4, and 5 of the neutrality regulations of the Italian States in 1778, states the reasons for a rule in regard to sailing of vessels of opposing belligerents.

ART. III. Un vaisseau quelconque de nations en guerre qui se trouvera à l'ancre au môle, ou à la Plage de Livourne ou à Portoferrajo, et d'autres Echelles du Grand Duché, ne pourra point partir quand il y aura des Signaux au Fanal, ou quand il y aura à vue des bâtimens pour lesquels il n'est pas d'usage de mettre des signaux. Et si les vaisseaux de nations en guerre auront deja mis à la voile, et qu'il paroissent des signaux au Fanal, ou des bâtimens, avant qu'ils auront passé la ligne du Melorie, ils seront rappellés par le Canon, et devront retourner pour jetter l'ancre. Et s'ils viennent de la mer et qu'après qu'ils seront entrés en deçà de la ligne du Melorie, ils se presentent à vue des bâtimens, ou qu'il se mettent des signaux au fanal, ils ne pourront point rebrousser chemin pour aller à leur rencontre, mais ils devront continuer leur route pour jetter l'ancre dans le Port ou à la Plage, sans molester les bâtimens qui arrivent.

ART. IV. Quand un vaisseau d'une nation en guerre aura jetté l'ancre au môle ou à la plage, il dependra de celui qui est arrivé le premier, de partir avant ou après l'autre, cependant de tels bâtimens d'une nation en guerre ne pourront partir que vingt-quatre heures après le depart d'autres bâtimens de pavillon quelconque.

ART. V. Et comme, vu qu'il entrent frequemment des vaisseaux dans nos Ports, et particulièrement dans celui de Livourne, et qu'ils en repartent de même, les vaisseaux de nations en guerre pourroient être longtems empechés de partir, au préjudice du commerce, nous voulons qu'il leur soit permis de partir même dans l'espace du tems defendu

par la presente constitution, pourvu que les Capitaines des vaisseaux de guerre chaque fois qu'ils voudront partir, ou les Commandans des Flottes ou Escadres une fois pour toutes donnent leur parole d'honneur aux Gouverneurs de Livourne et de Portoferrajo, de ne point molester les navires signalés et ceux qui seront a portée de vue, ou ceux qui seront partis pendant les vingt-quatre heures, de quelque nation ou pavillon qu'ils soient. Et les Capitaines et maitres de navires marchands ou les armateurs donneront caution suffisante pour observation des susdites conditions. (4 De Martens, Recueil des Traités, 207.)

By the Austrian ordinance of August 7, 1803, it was planned to avoid conflict near the Austrian coast:

Art. XI. Comme tous les vaisseaux, sans exception, doivent jouir de la protection, qui dérive de la neutralité, et d'une parfaite sûreté dans tous les Ports, rades et côtes soumises à notre domination, on ne permettra point qu'il soit exercé des hostilités par un ou plusieurs vaisseaux des puissances en guerre, dans les dits Ports, et à une distance d'une portée de Canon des côtes, ni conséquemment qu'il soit livré de combat, poursuivi, attaqué, visité ou saisi de bâtimens. A quoi toutes nos autorités, et particulièrement les Commandans Militaires dans les Ports de mer, devront spécialement veiller.

Art. XII. En vertu des droits résultans de la même Neutralité, il ne sera point permis aux Vaisseaux des Puissances Belligérantes, de croiser devant nos Ports à la distance mentionnée dans l'Article précédent, pour y attendre les bâtimens sortans ou entrans; bien moins encore de s'arrêter dans les dits Ports avec le dessein d'aller à la rencontre des bâtimens, qui doivent arriver, ou de suivre ceux qui veulent mettre en mer.

Art. XIII. Lorsque des Corsaires ou bâtimens marchands armés des deux puissances belligérantes se trouveront en même tems dans nos Ports, et qu'un d'eux voudra remettre en mer, l'autre ne pourra sortir que 24 heures après; bien entendu que le bâtiment, qui a le premier jetté l'ancre dans le Port, conservera la faculté de remettre en mer, avant ou après l'autre. Les vaisseaux de guerre, ou des Escadres entières, ne seront cependant point soumis à ce délai de 24 heures, pourvu toutefois que leurs Commandans donnent leur parole d'honneur au Gouverneur ou premier Officier du Port, de ne poursuivre ou inquiéter pendant ce laps de tems, aucun bâtiment de son ennemi. Cette parole sera donnée une fois pour toutes, par les Commandans des Flottes et Escadres: les Capitaines des vaisseaux particuliers devront renouveller cette promesse chaque fois qu'il voudront remettre en mer. Quant aux Capitaines de bâtimens marchands armés ou Corsaires, ils ne pourront sortir de Port avant les 24 heures écoulées, qu'après avoir fourni une Caution réelle de l'accomplissement de leur promesse.

Art. XIV. Il ne sera point permis aux bâtimens de puissances belligérantes de sortir du Port, au moment où l'on auroit signalé l'arrivée d'un bâtiment étranger, à moins que, comme il a été statué dans l'Ar-

ticle précédent, le Commandant des vaisseaux de guerre n'ait donné sa parole, et les bâtimens marchands et armateurs n'aient fourni la Caution suffisante, de s'abstenir de tout acte d'hostilité contre les dits bâtimens. (3 Supplément, De Martens, Recueil des Traités, p. 544.)

The aim of the original rules in regard to the delay of twenty-four hours was to put this period of time between the pursuit or attack by the vessels of one belligerent of those of the other. As Rosse says of the Austrian ordinance of 1803:

L'ordonnance autrichienne de 1803 sanctionne une règle différente: elle ne rend pas obligatoire l'intervalle de 24 heures pour la sortie, mais elle impose aux commandants de bâtiments armés l'obligation de donner au capitaine du port leur parole d'honneur d'attendre en mer l'expiration d'un délai de 24 heures, avant de poursuivre ou d'attaquer les navires ennemis. (Guide Int. du Commandant de Bâtiment de Guerre, p. 202.)

President Grant's proclamation, 1870.—The position of the United States was set forth in 1870 in the proclamation of October 8:

Whereas on the 22d day of August, 1870, my proclamation was issued, enjoining neutrality in the present war between France and the North German Confederation and its allies, and declaring, so far as then seemed to be necessary, the respective rights and obligations of the belligerent parties and of the citizens of the United States; and whereas subsequent information gives reason to apprehend that armed cruisers of the belligerents may be tempted to abuse the hospitality accorded to them in the ports, harbors, roadsteads, and other waters of the United States, by making such waters subservient to the purposes of war:

Now, therefore, I, Ulysses S. Grant, President of the United States of America, do hereby proclaim and declare that any frequenting and use of the waters within the territorial jurisdiction of the United States by the armed vessels of either belligerent, whether public ships or privateers, for the purpose of preparing for hostile operations, or as posts of observation upon the ships of war or privateers or merchant vessels of the other belligerent lying within or being about to enter the jurisdiction of the United States, must be regarded as unfriendly and offensive, and in violation of that neutrality which it is the determination of this Government to observe; and to the end that the hazard and inconvenience of such apprehended practices may be avoided, I further proclaim and declare that from and after the 12th day of October instant, and during the continuance of the present hostilities between France and the North German Confederation and its allies, no ship of war or privateer of either belligerent shall be permitted to make use of any port,

harbor, roadstead, or other waters within the jurisdiction of the United States as a station or place of resort for any warlike purpose, or for the purpose of obtaining any facilities of warlike equipment; and no ship of war or privateer of either belligerent shall be permitted to sail out of or leave any port, harbor, or roadstead, or waters subject to the jurisdiction of the United States, from which a vessel of the other belligerent (whether the same shall be a ship of war, a privateer, or a merchant ship) shall have previously departed, until after the expiration of at least twenty-four hours from the departure of such last-mentioned vessel beyond the jurisdiction of the United States. (U. S. Foreign Relations, 1870, p. 48.)

A similar proclamation was issued by the United States in consequence of the Russo-Japanese war of 1904–5.

In regard to this proclamation by President Grant of October 8, 1870, Sir Edward Thornton wrote to Earl Granville:

WASHINGTON, *October 10, 1870.*

My LORD: I have the honor to inclose a copy of a proclamation which was signed by the President of the United States on the 8th instant, and published yesterday, as to the manner in which, with reference to the war now existing between France and the North German Confederation and its allies, the armed vessels of either belligerent, whether public ships or privateers, are to be treated in the ports of the United States. The contents of this proclamation are in many respects similar to the orders recently given by Her Majesty's Government with respect to the treatment of such vessels in British ports.

It would seem that the issue of this document has been instigated by the recent conduct of French vessels of war in the neighborhood of the port of New York. It is said that French gunboats have lately moored about the entrance of that port, and have sometimes been anchored outside, within 3 miles of the coast, for the purpose of intercepting any North German vessels which might leave New York, and particularly the German steamers, which, in consequence of the termination of the blockade of the German ports, have renewed their voyages. On one occasion the French gunboat *Latouche Tréville* steamed up the bay of New York, round the German steamer *Hermann*, went out again, and anchored outside.

A French frigate and two smaller vessels of war arrived lately at New London, in Connecticut, on the pretext of requiring repairs; they remained there for some days, although they only had to repair some spars, which could have been done nearly as well at sea as on shore. From that point notice could be given of the sailing of German vessels from New York, and men-of-war stationed at New London could easily have intercepted them.

Mr. Fish told me that he had represented to the French minister, that, although he could not positively allege a violation of international law, he considered that the proceedings of belligerent vessels of war in hovering about the entrance of a neutral port and as it were, blockading it and making the neighborhood a station for their observations, were contrary to custom, and were unfriendly and uncourteous to the United States. Mr. Fish added that Mr. Berthemy had written upon the subject to the French admiral, who in reply had denied the fact of hovering about the port or of using the neighborhood as a station of observation; but confessed that the proceeding of the *Latouche Tréville* in entering the port of New York for the purpose of observing the German steamer *Hermann* was improper, and that her commander had consequently been severely reproved.

My Prussian colleague in expressing his satisfaction at the issue of the inclosed proclamation, has made observations which lead me to suppose that he imagines that by the its provisions merchant vessels are prohibited from exporting arms and ammunition from the ports of the United States for the use of the belligerents, and I fear that he may have telegraphed in that sense to his Government, but though I did not feel called upon to question Baron Gerolt's view of the case, I can find no expressions in the proclamation which justify such an interpetration; indeed, Mr. Fish denies that it was intended to convey any such meaning.

I have, etc.,

EDW. THORNTON.

(61 British and Foreign State Papers, 1870–71, p. 878.)

The Netherlands order, 1893.—The Netherlands royal order of February 2, 1893 (Official Gazette, No. 46), in article 5 provides:

If, however, war ships or other ships and vessels of the parties at war should simultaneously be in the same harbor, roads, or sea channel of the State, a period of twenty-four hours shall elapse between the departure of a ship or ships, of a vessel or vessels, of the one party and the departure of a ship or ships, of a vessel or vessels, of the other party.

This period, according to circumstances, may be extended by the local maritime authorities.

Neutrality proclamations.—The French declaration of neutrality in 1898, to which that of 1904 corresponded, was as follows:

The Government decides in addition that no ship of war of either belligerent will be permitted to enter and to remain with her prizes in the harbors and anchorages of France, its colonies and protectorates, for more than twenty-four hours, except in the case of forced delay or justifiable necessity.

While the Italian authorities proclaimed the twenty-four-hour rule, their mercantile marine code allows some degree of freedom of judgment:

ART. XI. If ships of war, cruisers, or merchant vessels belonging to the two belligerent parties should be at the same time in a port or roadstead or on the coast of the Kingdom, there must be an interval of at least twenty-four hours between the departure of any vessel of one belligerent party and that following of any ship of the other party. This interval may be increased according to the circumstances by the maritime authority of the place.

Similar discretion was allowed by other States.

The Brazilian regulations issued at the outbreak of the Spanish-American war in 1898 provide that—

VI. No war ship or privateer shall be permitted to enter and remain, with prizes, in our ports or bays during more than twenty-four hours, except in case of a forced putting into port, and in no manner shall it be permitted to it to dispose of its prizes or of articles coming out of them.

By the words "except in case of a forced putting into port" should also be understood that a ship shall not be required to leave port within the said time:

First. If it shall not have been able to make the preparations indispensable to enable it to go to sea without risk of being lost.

Second. If there should be the same risk on account of bad weather.

Third. And, finally, if it should be menaced by an enemy.

In these cases, it shall be for the Government, at its discretion, to determine, in view of the circumstances, the time within which the ship should leave.

Belgian decree, 1901.—A Belgian royal decree of February 18, 1901, made a definite statement in regard to the return of war vessels to a neutral port:

ART. VIII. Vessels belonging to the navy of a power engaged in a maritime war are only admitted in the Belgian territorial waters and harbors for a stay of twenty-four hours. The same vessel will not be admitted twice within the space of three months.

The prohibition of entrance to a neutral port for a period of three months from the date of taking coal in that port has been general, as in Article XIII of this Belgian decree:

In no case shall vessels of war or privateers of a nation engaged in a maritime war be furnished with supplies or means of repairs in excess of what is indispensable to reach the nearest port of their country, or of

a nation allied to theirs in the war. The same vessel may not, unless specially authorized, be provided with coal a second time until the expiration of three months after a first coaling in a Belgian port.

In regard to the sailing of vessels of the two belligerents from Belgian ports, the decree provides:

ART. XIX. Should men-of-war or merchant vessels of two nations in a state of war happen to be at the same time in a Belgian harbor or waters, there shall occur an interval of at least twenty-four hours, fixed by the competent authorities, between the departure of a vessel of one of the belligerents and the subsequent departure of a vessel of the other belligerent.

In this case an exception may be made in regard to the prescriptions of Article VIII.

Priority of request secures priority of sailing.

However, the weaker of the two vessels may be allowed to sail first.

There is also provision against using a Belgian port as a base:

ART. XV. They must abstain from any act intended to convert their place of refuge into a base of operation whatever against their enemies, and also from any investigation into the resources, forces, or location of their enemies.

A certain degree of freedom is left to the Government in cases warranted by special circumstances:

ART. XX. The Government reserves the right to modify the provisions of Articles VIII and following of the present order, with the view to taking, in special cases and under exceptional circumstances arising, all measures which the strict observation of neutrality might render opportune or necessary.

Opinion of Professor Lawrence.—Lawrence says of the "twenty-four hour rule:"

In recent times neutral states have acted upon their right of imposing conditions on belligerent vessels visiting their ports. The twenty-four hour rule is the oldest and the most common. It lays down that when war vessels of opposing belligerents are in a neutral port at the same time, or when war vessels of one side and merchant vessels of the other are in the like predicament, at least twenty-four hours shall elapse between the departure of those who leave first and the departure of their opponents. The object of this injunction is to prevent the occurrence of any fighting either in the waters of the neutral or so close to them as to be dangerous to vessels frequenting them. Sometimes the word of the commanders that they will not commence hostilities in or near neutral territorial waters has been accepted as sufficient. (Principles of Int. Law, p. 509.)

Opinion of Hall.—Hall, speaking of the "twenty-four-hour rule," writing before the Second Hague Conference, says:

The neutral may take what precautions he chooses in order to hinder a fraudulent use being made of his ports provided he attains his object. If he prefers to rely upon the word of a commander, there is nothing to prevent him. Even if the twenty-four hours' rule becomes hardened by far longer practice than now sanctions it, the right of the neutral to vary his own port regulations can never be ousted. The rule can never be more than one to the enforcement of which a belligerent may trust in the absence of notice to the contrary. (Int. Law, 5th ed., p. 628n.)

The regulations have not been uniform, but the aim has usually been definite. Hall says:

If a belligerent can leave a port at his will, the neutral territory may become at any moment a mere trap for an enemy of inferior strength. Accordingly during a considerable period, though not very generally or continuously, neutral states have taken more or less precaution against the danger of their waters being so used. Perhaps the usual custom until lately may be stated as having been that the commander of a vessel of war was required to give his word not to commit hostilities against any vessel issuing from a neutral port shortly before him, and that a privateer as being less a responsible person was subjected to detention for twenty-four hours. (Int. Law, 5th ed., p. 627.)

French opinion.—A French writer has recently said of the "twenty-four hour rule:"

La première a pour but d'éviter que des hostilités se produisent dans un trop proche voisinage d'un port neutre où deux navires belligérants ennemis ont dû chercher asile en même temps. Il peut arriver, en effet—et cela arrive plus particulièrement lorsque c'est le mauvais temps, qui n'a de ménagements pour personne, qui a contraint des belligérants à chercher un refuge—que des vaisseaux ennemis se rencontrent dans un même port neutre. Tant que ces vaisseaux se trouveront dans le territoire neutre, il est à croire que les règles formelles qui s'opposent à toute hostilité sur ce territoire les empêcheront de se livrer bataille dans ce port neutre ou dans ces eaux. Mais le parti le plus fort pourrait cependant profiter de cette réunion fortuite, et, sortant du port neutre en même temps que son ennemi plus faible, il pourrait l'assaillir aussitôt en pleine mer, et lui infliger une défaite certaine. C'est en vue d'éviter d'aussi regrettables conséquences à l'asile que les Etats neutres ont adopté la règle dite des vingt-quatre heures, ainsi formulée par la France dans ses dernières instructions. Lorsque des belligérants ou navires de commerce des deux belligérants se trouveront ensemble dans un port français, il y aura un intervalle qui ne pourra être moindre de vingt-quatre heures entre le départ de

tout navire de l'un des belligérants et le départ subséquent de tout bâtiment de l'autre. Ce délai sera étendu, en cas de besoin, sur l'ordre de l'autorité maritime, autant que cela pourra être nécessaire. (René Gaborit, Questions de Neutralité Maritime soulevées par la Guerre Russo-Japonaise, p. 161.)

Azuni's rules.—Azuni's rules in regard to the application of the "twenty-four hour rule" to war ships of belligerents in neutral ports:

V. They cannot set sail as soon as an enemy's ship has weighed anchor. Twenty-four hours, at least, ought to intervene between the departure of the one and that of the other. Where that time has elapsed, if the enemy-vessel be still in sight of the port, their departure ought to be delayed, until the vessel is out of sight, and it is unknown what course she has steered.

VI. They cannot lie in wait in bays or gulfs, nor conceal themselves behind capes, headlands or the small islands belonging to the neutral territory, to be on the look-out and ready to chase the vessels of their enemy. They ought not, in any manner, to hinder the approach of vessels of any nation whatever to the ports and shores of neutral powers. (Maritime Law of Europe, Part 2, Chap. V, Art. I, sec. 7.)

Opinion of Kleen.—Of the rule in regard to the number of war ships of a belligerent permitted to be in a neutral port at the same time, Kleen says:

Afin d'éviter les dangers et inconvénients résultant de la présence simultanée, dans un port, de trop de navires de guerre, notamment du même État, plusieurs législations ont depuis longtemps fixé un certain nombre pour chaque pavillon, comme *maximum* de ces navires admis en même temps. Autrefois, surtout au XVIII. siècle, ce nombre, variant de trois à huit, fut même établi par des traités. Encore aujourd'hui, on retrouve dans diverses législations nationales cet expédient suranné de parer aux inconvénients d'hôtes gênants, même en temps de paix. L'avantage est douteux, tant que la loi ne s'en tient qu'au nombre des navires et non à celui des canons. Grâce à la construction moderne, un seul cuirassé peut exposer la tranquillité d'un port à plus de danger qu'une huitaine de croiseurs ordinaires. D'ailleurs, la force militaire étrangère peut difficilement être vérifiée par les autorités de la place. Il est donc moins pratique de s'occuper de la question de force ou de nombre, que d'établir simplement: en temps de paix, la permission demandée pour chaque fois comme condition d'entrée, et en temps de guerre, la défense, hors l'asile accordé à la détresse.

2°. Les États qui, étant neutres, admettent encore les navires de guerre des belligérants dans leurs ports, même sans détresse, comme par exemple l'Angleterre et l'Italie, limitent alors le droit de séjour à un temps très court (24 heures). (I Kleen, La Neutralité, p. 536.)

Regulations of the Institute of International Law.—The Institute of International Law in its session at Edinburgh in 1904 outlined the rules which are generally recognized in cases of sojourn of war ships of belligerents in neutral ports and their departure from such ports:

ART. 42. La concession d'asile aux belligérants dans les ports neutres, tout en dépendant de la décision de l'État souverain du port et ne pouvant être exigée, est présumée, à moins de notification contraire préalablement communiquée.

Toutefois, quant aux navires de guerre, elle doit être limitée aux cas de véritable détresse, par suite de: 1° défaite, maladie ou équipage insuffisant; 2° péril de mer; 3° manque de moyens d'existence ou de locomotion (eau, charbon, vivres); 4° besoin de réparation.

Un navire belligérant se réfugiant dans un port neutre devant la poursuite de l'ennemi, ou après avoir été défait par lui, ou faute d'équipage pour tenir la mer, doit y rester jusqu'à la fin de la guerre. Il en est de même s'il y transporte des malades ou des blessés, et qu'après les avoir débarqués, il soit en état de combattre. Les malades et les blessés, tout en étant reçus et secourus, sont, après guérison, internés également, à moins d'être reconnus impropres au service militaire.

Un refuge contre un péril de mer n'est donné aux navires de guerre des belligérants que pour la durée du danger. On ne leur fournit de l'eau, du charbon, des vivres et autres approvisionnements analogues qu'en la quantité nécessaire pour atteindre le port national le plus proche. Les réparations ne sont permises que dans la mesure nécessaire pour que le bâtiment puisse tenir la mer. Immédiatement après, le navire doit quitter le port et les eaux neutres.

Si deux navires ennemis sont prêts à sortir d'un port neutre simultanément, l'autorité locale établit, entre leurs appareillages, un intervalle suffisant, de 24 heures au moins. Le droit de sortir le premier appartient au navire le premier entré, ou, s'il ne veut pas en user, à l'autre, à la charge d'en réclamer l'exercice à l'autorité locale, qui lui délivre l'autorisation si l'adversaire, dûment avisé, persiste à rester. Si, à la sortie d'un navire d'un belligérant, un ou plusieurs navires ennemis sont signalés, le navire sortant doit être averti et peut être réadmis dans le port pour y attendre l'entrée ou la disparition des autres. Il est défendu d'aller à la rencontre d'un navire ennemi dans le port ou les eaux neutres.

Les navires des belligérants doivent, en port neutre, se conduire pacifiquement, obéir aux ordres des autorités, s'abstenir de toutes hostilités, de toute prise de renfort et de tout recrutement militaire, de tout espionnage et de tout emploi du port comme base d'opération.

Les autorités neutres font respecter, au besoin par la force, les prescriptions de cet article.

L'Etat neutre peut exiger une indemnité de l'Etat belligérant dont il a entretenu soit des forces légalement internées, soit des malades et blessés, ou dont des navires ont, par mégarde ou par infraction à l'ordre du port, occasionné des frais ou dommages." (20 Annuaire de l'Institut de Droit International, 1904, p. 338.)

British propositions in 1907.—Great Britain made the following propositions at the conference at The Hague in 1907 in regard to the sojourn of belligerent ships in neutral ports:

(11) Une puissance neutre devra notifier à tout navire de guerre d'une puissance belligérante—stationnant à sa connaissance dans ses ports ou eaux territoriales au moment de l'ouverture des hostilités—qu'il ait à partir dans les 24 heures.

(12) Une puissance neutre ne devra pas sciemment permettre à un navire belligérant de demeurer dans ses ports ou eaux territoriales pour une période de plus de 24 heures, sauf dans les cas prévus aux articles de la présente convention.

(13) Si des navires, soit de guerre soit de commerce, des deux parties belligérantes se trouvent au même moment dans le même port ou la même rade d'un neutre, le Gouvernement neutre ne devra pas permettre à un vaisseau de guerre d'un des belligérants de quitter le port ou la rade sauf à l'expiration d'un délai de 24 heures après le départ d'un navire, tant de guerre que de commerce, de l'autre belligérant.

(14) Si pour des raisons quelconques un navire de guerre belligérant ne quitte pas le port ou les eaux d'une puissance neutre après avoir reçu un avis d'avoir à partir, il sera interné jusqu'à la fin de la guerre par la puissance neutre, sauf dans le cas où il aurait été retenu à cause du mauvais état de la mer.

(15) Lorsqu'un navire de guerre d'un belligérant se réfugie dans des eaux neutres afin d'échapper à la poursuite de l'ennemi, il incombe au Gouvernement de l'Etat neutre de l'interner jusqu'à la fin de la guerre.

Application of the Hague Convention to the situation.—The Hague Convention of 1907 concerning the Rights and Duties of Neutral Powers in Naval War recognizes in its introductory clauses that there are many unsettled questions in the field of neutral rights and duties which the convention does not cover. The convention is, however, a decided contribution toward uniform regulations.

According to Article XV of this convention:

In the absence of special provisions to the contrary in the legislation of a neutral Power, the maximum number of war ships belonging to a belligerent which may be in one of the ports or roadsteads of that Power simultaneously shall be three.

This is in accord with the rules for the Netherlands Indies in 1904. An Austrian ordinance of August 7, 1803, allowed six vessels of a belligerent to enter its ports. These were, of course, sailing vessels.

The United States under the Hague Convention, which with reservation as to Article III and the exclusion of Article XXIII, was adhered to April 17, 1908, would be acting properly in admitting the three war ships of State X.

The United States has generally proclaimed the twenty-four hour rule which would render Article XII of the convention operative:

> In absence of special provisions to the contrary in the legislation of a neutral Power, belligerent war-ships are not permitted to remain in the ports, roadsteads, or territorial waters of the said Power for more than twenty-four hours, except in the cases covered by the present Convention.

The entrance of the war ship of State Y into the United States port brings the vessels of the belligerents under Article XVI.

> When war ships belonging to both belligerents are present simultaneously in a neutral port or roadstead, a period of not less than twenty-four hours must elapse between the departure of the ship belonging to one belligerent and the departure of the ship belonging to the other.
>
> The order of departure is determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of its stay is permissable.
>
> A belligerent war ship may not leave a neutral port or roadstead until twenty-four hours after the departure of a merchant-ship flying the flag of its adversary.

The three war ships of State X sail within the twenty-four hour period.

The war ship of Y sails twenty-five hours later, in accord with the provisions of Article XVI.

The war ship of State Y soon after leaving the neutral port N of the United States discovers several war ships of State X outside the 3-mile limit, but near, and returns to port N. The question naturally arises as to whether the war ship which returns under these circumstances is liable to be interned by the United States.

The object of the so-called "twenty-four hour rule" should be considered in determining what action should be taken under it. The thirteenth convention of the Second Hague Conference definitely states that "in cases not covered by the present convention, it is expedient to

take into consideration the general principles of the law of nations." The provisions must therefore be interpreted with reference to their real purpose.

Article 16 of the thirteenth convention of the Second Hague Conference definitely provides that "not less than twenty-four hours must elapse between the departure of the ship belonging to one belligerent and the departure of the ship belonging to the other."

Article 24 provides for the internment, "if, notwithstanding the notification of the neutral power, a belligerent ship of war does not leave a port where it is not entitled to remain."

The war ship of State Y had not, according to the situation, been notified to leave port N, but on leaving discovers the war ships of State X near by, and even if it had returned after notification, the Hague Convention provides that a state "is entitled" to take measures against the vessel, not that it must take such measures.

Case of the Harvard, 1898.—An incident in the early stages of the Spanish-American war of 1898 suggests the need of an amplification of the rule by which a belligerent man-of-war is required, except in case of stress of weather or of need of provisions or repairs, to leave a neutral port within twenty-four hours after her arrival:

On May 11, 1898, Captain Cotton, of the auxiliary cruiser *Harvard*, cabled from St. Pierre, Martinique, to the Secretary of the Navy, that the Spanish torpedo-boat destroyer *Furor* had touched during the afternoon at Fort de France, Martinique, and had afterwards left, destination unknown, and that the governor had ordered him not to sail within twenty-four hours from the time of the *Furor's* departure. At noon on the 12th of May Captain Cotton was informed by the captain of the port at St. Pierre that the *Furor* had about 8 a. m. again called at Fort de France and would leave about noon, and that he might go to sea at 8 p. m.; but that if he did not do so, he would be required to give the governor twenty-four hours' notice of his intention to leave the port. On the same day Captain Cotton received information which led him to telegraph to the Secretary of the Navy that he was closely observed and blockaded at St. Pierre by the Spanish fleet, and that the Spanish torpedo-boat destroyer *Terror* was at Fort de France. Later, Captain Cotton cabled that the Spanish consul protested against his stay at St. Pierre, and that he had requested permission to remain a week to make necessary repairs to machinery. Replying to these

reports the Secretary of the Navy telegraphed to Captain Cotton as follows: "Vigorously protest against being forced out of the port in the face of superior blockading force, especially as you were detained previously in the port by the French authorities because Spanish men-of-war had sailed from another port. Also state that United States Government will bring the matter to the attention of the French Government. Urge United States consul to protest vigorously." It proved to be unnecessary to take further action. Captain Cotton's request for time was granted. The governor showed no disposition to force him out of port, only requiring twenty-four hours' notice of an intention to sail; and the dangers to which the *Harvard* seemed to be exposed soon disappeared. It may be observed, however, that as the enforcement under circumstances such as were described of the twenty-four hours' limit would constitute a negation of the admitted privilege of asylum, it is not likely that it would be held to be applicable in such a situation. (Int. Law Situations, 1901, p. 147.)

General summary.—While the neutral state would of course have no jurisdiction over a war ship or fleet which had recently left its territory, even though it might remain off its coast, yet the neutral state would have the power to determine what vessels it might admit in view of a failure by the ship or fleet to observe the spirit of the regulations which the neutral state had established in regard to departure and sojourn. (Perels, Öffentliche Seerecht der Gegenwart, sec. 39, III, 3.)

If in the situation under consideration the war ships of State X were those which had last left port N, they would in effect be blockading the United States port N, a neutral port, for a bona fide departure twenty-four hours in advance of the ship of State Y would have taken the ships of State X by that much out of the range of of this ship of State Y. The offense is not in such a case in the ship of State Y, last departing, but in the ships of State X, whose departure purported to have been taken twenty-four hours earlier. The vessel of State Y should therefore be permitted to return to port in such a case without liability to internment.

If the war ships of State X were other than those which had recently left port N and were about to enter port N, it has been customary to allow the vessel about to depart to return or even for the neutral to summon

the vessel to return when vessels of one of the belligerents are sighted as vessels of the other belligerent leave the port.

If the war ships of State X off the port were other than those which had recently left port N and were not about to enter port N it would not be customary to force the war ship of State Y to meet these vessels, and her return would be permitted unless it should be evident that the original entrance to port N was in the nature of an attempt to escape capture and this return was in fact a part of the same transaction.

CONCLUSION.

The war ship of State Y should be allowed to return to the neutral port without necessarily incurring liability to internment, unless it is evident that this return is to escape military consequences to which this war ship has, through her own action, become subject after departure from port N.

Situation III.

SEQUESTRATION OF PRIZE.

There is war between the United States and State X. Other States are neutral. France has not placed any restriction on the entrance into French ports of vessels with prize.

A war ship of the United States captures a merchant vessel of State Z which has evidently been guilty of violation of blockade. The United States war vessel is near a French port, but remote from a United States prize court. In order to avoid more severe action the commander of the United States war vessel decides to send the captured vessel into the French port with the request that it be held pending the decision of the United States prize court on the evidence which has been forwarded.

How far would this action be allowable?

SOLUTION.

The commander should not take the prize into French port to be sequestrated pending prize proceedings unless instructed. He should act in accord with General Orders, 492, of the Navy Department, 1898.

20. Prizes should be sent in for adjudication, unless otherwise directed, to the nearest home port in which a prize court may be sitting.

NOTES ON SITUATION III.

Statement.—In Situation III while the United States is at war with State X and other States neutral, an American war ship captures a merchant vessel of State Z because of violation of blockade. This vessel is near a French port. The question then arises as to whether the captor can send a vessel into a neutral port to await the decision of a prize court of the United States.

Early history.—In earlier centuries there seems to have been a considerable variation in the practice as to receiving prize within neutral ports. In France an ordinance in

1400 prescribes that prizes made by French war vessels shall be sent to French ports. A similar ordinance was issued in Denmark in 1710. French ordinances of 1543, 1674, and 1689, in general made definite provisions by which—

Il étoit défendu à tous capitaines ou commandans des vaisseaux de guerre, de laisser, ou d'envoyer en pays étranger, aucunes des prises qu'ils pourroient faire.

Christopher Robinson says:

The practice continued till a new system was introduced by the ord. 11 March, 1705. "Qui pour la première fois a permis de conduire es prises dans les ports étrangers, de les y vendre, ou de les ramener, sous la guarde et la surveillance des consuls Français." (Code des Prises 1799, vol. i, p. 375.) In 1759, ord. 22 May, France seems to have returned to the old practice: "Aucune prise ne sera conduite dans un port étranger, à moins d'une absolue nécessité." Code des Prises 1784, p. 1221. (Collectanea Maritima, p. 32n.)

The wars at the end of the eighteenth century disturbed practice and gave rise to irregularities in many matters relating to maritime warfare.

British opinion, court and vessel in neutral jurisdiction.—In the case of the *Flad Oyen* which had been condemned by a French consul in a neutral port, Lord Stowell in 1799 said of prize condemnations:

Now, in what form have these adjudications constantly appeared? They are the sentences of courts acting and exercising their functions in the belligerent country, and it is for the very first time in the world that, in the year 1799, an attempt is made to impose upon the court a sentence of a tribunal not existing in the belligerent country, but of a person pretending to be authorized within the dominions of a neutral country. In my opinion, if it could be shown that, regarding mere speculative general principles, such a condemnation ought to be deemed sufficient, that would not be enough; more must be proved; it must be shown that it is conformable to the usage and practice of nations.

A great part of the Law of Nations stands on no other foundation; it is introduced, indeed, by general principles, but it travels with those general principles only to a certain extent; and, if it stops there, you are not at liberty to go farther, and to say that mere general speculations would bear you out in a further progress. Thus, for instance, on mere general principles it is lawful to destroy your enemy, and mere general principles make no great difference as to the manner by which this is to be effected; but the conventional law of mankind, which is

evidenced in their practice, does make a distinction, and allows some and prohibits other modes of destruction; and a belligerent is bound to confine himself to those modes which the common practice of mankind has employed, and to relinquish those which the same practice has not brought within the ordinary exercise of war, however sanctioned by its principles and purposes.

Now, it having been the constant usage that the tribunals of the Law of Nations in these matters shall exercise their functions within the belligerent country, if it was proved to me in the clearest manner that on mere general theory such a tribunal might act in the neutral country, I must take my stand on the ancient and universal practice of mankind, and say that, as far as that practice has gone, I am willing to go, and where it has thought proper to stop, there I must stop likewise.

It is my duty not to admit, that because one nation has thought proper to depart from the common usage of the world, and to meet the notice of mankind in a new and unprecedented manner, that I am on that account under the necessity of acknowledging the efficacy of such a novel institution, merely because general theory might give it a degree of countenance, independent of all practice from the earliest history of mankind. The institution must conform to the text law, and likewise to the constant usage upon the matter; and when I am told that, before the present war, no sentence of this kind has ever been produced in the annals of mankind, and that it is produced by one nation only in this war, I require nothing more to satisfy me that it is the duty of this court to reject such a sentence as inadmissible.

Having thus declared that there must be an antecedent usage upon the subject, I should think myself justified in dismissing this matter without entering into any farther discussion. But even if we look farther, I see no sufficient ground to say, that on mere general principles such a sentence could be sustained; proceedings upon prize are proceedings *in rem;* and it is presumed that the body and substance of the thing is in the country which has to exercise the jurisdiction. (1 C. Robinson, Admiralty Reports, 135.)

The condemnation in a neutral port is not far removed from the sequestration in a neutral port pending a decision of the prize court. Either makes possible the using of the neutral port as a sort of base. As was said by Lord Stowell in this case of the *Flad Oyen:*

It gives one belligerent the unfair advantage of a new station of war which does not properly belong to him, and it gives to the other the unfair disadvantage of an active enemy in a quarter where no enemy would naturally be found. The coasts of Norway could no longer be approached by the British merchant with safety, and a suspension of commerce would soon be followed by a suspension of amity.

Wisely, therefore, did the American Government defeat a similar attempt made on them, at an earlier period of the war; they knew that to permit such an exercise of the rights of war within their cities, would be to make their coasts a station of hostility.

Later practice allowed the validity of condemnation when the court sat in the belligerent state, even though the prize might be in a neutral port. This was, however, regarded as irregular.

Certain other points were raised in the case of the *Falcon*.

This was a case on the claim of the British proprietor of a vessel, which had been captured by the French June 2, 1803, and condemned in a French consular court at Leghorn and sold under the authority of that sentence to the American consul in France. The vessel, after that conversion, was condemned on a rehearing, in the nature of an appeal in the "Conseil des Prises" at Paris, March 26, 1805.

If the matter had rested there, on the validity of the consular sentences at Leghorn, this court, under its former decisions, which have been affirmed in the superior court would not have held that title to be good. But there has been also a sentence of the Conseil des Prises at Paris.

In our own courts it happens unavoidably as to ships taken in the East Indies that long before the case comes to adjudication the property may have passed to other hands. If the title is impeached before the sentence takes place it may be vitiated, but when a valid sentence comes, it must be considered, as operating retroactively, so as to rehabilitate the former title. (The *Falcon*, 6 Robinson, Admiralty Reports 194.)

British opinion, court in belligerent, vessel in neutral jurisdiction.—In the case of the *Henrick and Maria*, in November, 1799, the question arose as to whether a purchaser could hold this vessel by the title of condemnation passed upon her while lying in a neutral port, when she had never been conducted into the country of the captor, nor into any port of an ally in time of war. Of this Lord Stowell said:

Without entering into a discussion of the several opinions that have been thrown out on this subject, I think I may state the better opinion and practice to have been that a prize should be brought *infra præsidia* of the capturing country, where, by being so brought, it may be considered as incorporated into the mass of national stock. The greatest extension that has been allowed has not carried the rule be-

yond the ports or places of security belonging to some friend or ally in the war who has a common interest in defending the acquisitions of the belligerent, made from the common enemy of both.

In later times an additional formality has been required, that of a sentence of condemnation, in a competent court, decreeing the capture to have been rightly made, *jure belli;* it not being thought fit, in civilized society, that property of this sort should be converted without the sentence of a competent court pronouncing it to have been seized as the property of an enemy, and to be now become *jure belli* the property of the captor. The purposes of justice require that such exercises of war should be placed under public inspection; and therefore the mere *deductio infra praesidia* has not been deemed sufficient. No man buys under that title; he requires a sentence of condemnation as the foundation of the title of the seller; and when the transfer is accepted he is liable to have that document called for, as the foundation of his own. From the moment that a sentence of condemnation becomes necessary, it imposes an additional obligation for bringing the property, on which it is to pass, into the country of the captor; for a legal sentence must be the result of legal proceedings in a legitimate court, armed with competent authority upon the subject-matter and upon the parties concerned—a court which has the means of pursuing the proper inquiry and enforcing its decisions. These are principles of universal jurisprudence applicable to all courts, and more peculiarly to those which by their constitution, in all countries, must act *in rem* upon the *corpus* or substance of the thing acquired and upon the parties, one of whom is not subject to other rights than those of war, and is amenable to no jurisdiction but such as belongs to those who possess the rights of war against him.

Upon principle, therefore, it is not to be asserted that a ship brought into a neutral port is with effect proceeded against in the belligerent country. The *res ipsa*, the *corpus*, is not within the possession of the court; and possession, in such cases, founds the jurisdiction. (4 C. Robinson, Admiralty Reports, 43.)

Lord Stowell further continues the maintenance of this principle, but in view of practice of his country in several instances holds that the court—

Is bound, against the true principle, by practice which it has not only admitted, but applied.

On the effect of the Sentence of the Prize Tribunals of France, pronounced on vessels carried into neutral ports, the editor takes this opportunity of inserting the recent (1807) decision of the Court of Appeal.

* * * * * * *

This case involves a question as the validity of sentences of condemnation pronounced in a belligerent country on prizes carried into neutral ports. There was some difference of opinion among the members

of the board, before whom the case was originally argued. But it appeared to me that the acknowledged practice of this country must have the effect of making those sentences valid whilst that practice continued. For there could be no equity, on which we could deny the validity of that title to neutrals purchasing of the enemy, at the same time that they were invited to take them from ourselves. (The *Henrick and Maria*, 6 Robinson, Admiralty Reports, 138—Note.)

In 1854, Doctor Lushington pronounced upon certain Russian merchant vessels which the British war vessels had brought to the neutral port of Memel, in Prussia. The merchant vessels were not seaworthy and had been deserted by their crews.

The Queen's Advocate moved the court to condemn the vessels and decree their sale in the port of Memel, stating that an intimation had been received from the Prussian Government that no objection would be made to such a course, provided they were sold by private contract, without being advertised or put up to auction.

Doctor Lushington said:

The circumstances under which the present application is made are quite peculiar, and form an exception to the general principle upon which this court proceeds. Though there is no direct evidence that the vessels are Russian, yet there is no claim, and the court entertains no doubt upon the subject. I have no hesitation in condemning them; and, looking at the fact deposed to, that they are not in a fit state to be brought to England, and the consent of the Prussian Government to their sale at Memel, the court will allow that course in the present case, but with the proviso that the wishes of the Prussian Government shall be fully observed with respect to the sale.

I wish it, moreover, to be expressly understood, that this case is decided upon its own peculiar circumstances, and is not to be considered as a precedent for the condemnation of a prize while lying in a neutral port. The rule is that the prize shall be brought into a port belonging to the captors' country, and the court must guard itself against allowing a precedent to the contrary to be established. (The *Polka Spinks*, Ecclesiastical and Admiralty Reports, 447.)

British opinion, vessels within belligerent or allied jurisdiction, but not near prize court.—It has been held that it is not necessary that the captured vessel should be brought into port where the prize court is sitting, provided the vessel is within the jurisdiction of the belligerent or of an ally, and little objection has been raised to this position, since it does not involve the use of neutral territory for the ends of war.

No objection was taken to the condemnation in the case of *La Dame Cécile.*

This was a case on appeal from the Vice-Admiralty Court of Barbadoes, as to a prize ship and cargo of slaves, which had been seized by the Goree garrison, who took the usual examinations and forwarded them, with the ship papers, to the High Court of Admiralty for adjudication, where the ship and cargo were condemned. They were in the meantime sold to a British merchant, who sent them to the island of Barbadoes for sale.

Held, these proceedings were valid and not contra to 26 and 29 Geo. 3, regarding importation into a British island.

The ship and cargo were seized by the garrison of Goree as prize. The captors could not bring them in person to adjudication for they could not move from their station; and it was impossible that such a cargo could find a market anywhere but in the West Indies. (*La Dame Cécile*, 6 Robinson Admiralty Reports 257.)

A further extension of this principle is seen in the case of the *Peacock.*

This was an American ship and cargo of wine taken by an English privateer on a voyage from Cadiz to London, May 19, 1800, and carried into Lisbon, where they were detained a long time, though no proceedings were commenced till they were afterwards brought to Jersey.

Supposing that the captors were justified in bringing in, to see if this representation of the false destination was true or not, what ought they to have done? The capture was made in Lat. 42 considerably to the north of Lisbon, the wind being then fair for England. It was their duty to have brought the prize directly to England; for if the public instructions give to captors the power of coming to the most convenient ports, they do not give them a wild and arbitrary discretion, but a discretion to be soundly exercised, on a due consideration of their own convenience, and of the interest of the neutral persons that may be concerned.

Another reason given for this delay is, that they waited for an opportunity of sending the vessel to England under convoy. Whether they sailed under convoy at last or not does not appear, but they did not sail for six weeks. It is the duty of privateers to bring their prizes home to a port of the kingdom as soon as they can. King's ships may reasonably be allowed a greater latitude, as being frequently attached to stations, which they can not leave. It may sometimes be necessary for them to send their prizes to Lisbon; and in some cases, I will not say that it may be absolutely impossible for privateers. But it cannot be so necessary and unless some very particular reason intervenes, it is their duty to bring their prizes home as speedily as possible, unless they carry them to the port of Gibraltar. (The *Peacock*, 4 Robinson Admiralty Reports 185.)

American opinion, court and vessel outside belligerent jurisdiction.—During the Mexican war the ship *Admittance* was captured as prize by a United States vessel, carried to Monterey, and condemned by a court established there. This court, however, was not in the legal sense a court of the United States, and hence was not authorized to adjudicate upon the question of prize or no prize. It was decided in the present suit that the captor had forfeited no rights by the above proceedings, and an order was given to proceed in a court of prize within whose jurisdiction were the proceeds of the sale of the property. (Jecker et al. *v.* Montgomery, 13 Howard, U. S. Supreme Court Reports, 512.)

As a general rule, it is the duty of the captor to bring it (the prize) within the jurisdiction of a Prize Court of the nation to which he belongs, and to institute proceedings to have it condemned. This is required by the act of Congress in cases of capture by ships of war of the United States; and this act merely enforces the performance of a duty imposed upon the captor by the law of nations, which in all civilized countries secures to the captured a trial in a court of competent jurisdiction before he can finally be deprived of his property.

But there are cases where, from existing circumstances, the captor may be excused from the performance of this duty, and may sell or otherwise dispose of the property before condemnation. And where the commander of a national ship cannot, without weakening inconveniently the force under his command, spare a sufficient prize crew to man the captured vessel; or where the orders of his government prohibit him from doing so, he may lawfully sell or otherwise dispose of the captured property in a foreign country; and may afterwards proceed to adjudication in a court of the United States. (13 Howard U. S. Supreme Court Reports, 516.)

American opinion, court in belligerent, vessel in neutral jurisdiction.—The United States courts in the war with Great Britain did not hesitate in following British precedent:

The British ships *Arabella* and *Madeira* were captured in June, 1814, by the private armed brig *Rambler*, Edes, commander, and 30 boxes of medicines, 16 bales of piece goods, 5 boxes of opium, and 75 casks of Madeira wine, parcel of their cargoes, were removed on board of the *Rambler*, carried into the port of Canton, China, and there landed.

Mr. Justice Story said:

The first question which presents itself, is whether the court has jurisdiction to proceed to the adjudication of prize property, lying in a foreign neutral port. This question has been discussed with much ability and learning in the courts of Great Britain, and has there been finally settled in the affirmative, not so much on the supposed correctness of the principle, as the general usage of nations. It was then admitted, that condemnation of prize property, lying in the ports of an ally in the war, was strictly justifiable; but it was thought that a different rule might apply to neutral ports. In the courts of the United States, the question has received a solemn decision, and it has been held that upon principle, a condemnation of a prize lying in a neutral port, is valid, and may be rightfully decreed by the prize jurisdiction. And the correctness of this decision is evidently presupposed in several provisions of the prize act. If therefore, I felt any lurking doubts on the subject, I should feel myself bound by authority. But I am free to declare, that after much reflection, I am entirely satisfied, that the doctrine is found in national law: "It is the duty of captors to bring in the master of the captured ship and the ship's papers. An omission to do this must be fully and satisfactorily explained to the court. The removal of prize goods is an inequality, but is indulged under certain circumstances." In point of practice, however, even in the British courts, when a similar statutable direction exists, a more indulgent rule has been adopted. When property has been captured on a remote station, or under circumstances calling for a removal, sale or other conversion, or even a delivery on bail, on the ground of some great inconvenience, the act has been held valid upon the proper explanations being made, and condemnation has been pronounced in favor of the captors. (The *Arabella* and the *Madeira*, 2 Gallison's U. S. Circuit Court Reports, 368.)

In the case of Hudson *v.* Guestier, the United States Supreme Court says:

The vessel and cargo which constitute the subject of controversy were seized within the territorial jurisdiction of the Government of Santo Domingo, and carried into a Spanish port. While lying in that port proceedings were regularly instituted in the court for the island of Guadaloupe; the cargo was sold by a provisional order of that court, after which the vessel and cargo were condemned. The single question, therefore, which exists in this case is, did the court of the captor lose its jurisdiction over the captured vessel by its being carried into a Spanish port?

A vessel captured as prize of war is, then, while lying in the port of a neutral, still in the possession of the sovereign of the captor, and that possession cannot be rightfully divested.

In cases of prize of war, then, the difficulty of executing the sentence does not seem to afford any conclusive argument against the jurisdiction of the court of the captor over a vessel in possession of the captor, but lying in a neutral or friendly port.

Do the same principles apply to a seizure made within the territory of a State for the violation of its municipal laws?

Possession of the *res* by the sovereign has been considered as giving the jurisdiction to his court; the particular mode of introducing the subject into the court, or, in other words, of instituting the particular process which is preliminary to the sentence, is properly of municipal regulation, uncontrolled by the law of nations, and, therefore, is not examinable by a foreign tribunal. It would seem, then, that the principles which have been stated as applicable in this respect to a prize of war, may be applied to a vessel rightfully seized for violating the municipal laws of a nation, if the sovereign of the captor possesses the same right to maintain his possession against the claim of the original owner in the latter as in the former case.

Had this been a prize of war, we have precedents and principles which would guide us. The cases cited from Robinson's Reports, and the regulations made by Louis XVI, in November, 1779, show that the practice of condemning prizes of war while lying in neutral ports has prevailed in England, and has been adopted in France. The objections to this practice may perhaps be sufficient to induce nations to change it by common consent, but until they change it the practice must be submitted to, and the sentence of condemnation passed under such circumstances will bind the property, unless the legislature of the country in which the captured vessel may be claimed, or the law of nations shall otherwise direct. (Hudson *v.* Guestier, 4 Cranch U. S. Supreme Court Reports, 293.)

American opinion, legality of capture.—It was held that in case a prize was brought within neutral jurisdiction, the neutral had a right to assure itself of the legality of the capture:

The right of adjudicating on all captures and questions of prize, exclusively belongs to the courts of the captors' country; but, it is an exception to the general rule, that where the captured vessel is brought, or voluntarily comes, *infra praesidia* of a neutral power, that power has a right to inquire whether its own neutrality has been violated by the cruiser which made the capture; and, if such violation has been committed, is in duty bound to restore, to the original owner, property captured by cruisers illegally equipped in its ports. (The *Estrella*, 4 Wheaton U. S. Supreme Court Reports, 298.)

Condemnation of prize not brought in.—It is sometimes necessary that the court should pass upon captures which have been made and which for urgent reason have been

destroyed, or have been lost at sea or for other reason can not be brought into the port where the prize court is sitting:

It is fully within the usage of prize courts to entertain and perfect their jurisdiction over property captured on board a vessel, without having the vessel itself brought within this cognizance. (Proceeds of Prizes of War, Abbott's Adm. R., 495; 10 Am. Encyc. 357, art. "Prize by Story, J.;" Jecker *v.* Montgomery, 18 How., 110, and 13 How., 498.)

In many instances this mode of procedure is indispensable, as in the case of the capture of enemy property in neutral vessels, and when the vessel is destroyed in capture. (The *Edward Barnard*, Blatchford's Prize Cases, 122.)

The vessel was destroyed by the captors because unfit to be sent in for adjudication. The cargo was sent in. Held that the court had judicial cognizance of the capture of the vessel without having been within its territorial jurisdiction. (The Schooner *Zavalla* and Cargo, Blatchford's Prize Cases, 173.)

This case also decided that although ordinarily it was necessary to send in the ship's papers and other first hand evidence, yet there might be extraordinary circumstances which would excuse a failure to do so.

The sentence of a competent court proceeding *in rem*, is conclusive with respect to the thing itself, and works an absolute change of the property.

A sale, before condemnation, by one acting under the possession of the captor, does not divest the court of jurisdiction, and the condemnation relates back to the capture, affirms its legality, and establishes the title of the purchaser. (Williams et al. *v.* Amroyd, 7 Cranch U. S. Supreme Court Reports, 423.)

Opinions of text writers.—The opinions of American and British authorities are fairly uniform. Wheaton in his "History of the Law of Nations," summarizes the views upon the competency of prize tribunals under differing conditions:

This brings Lampredi to consider the question as to the competent tribunal to determine the validity of captures, brought, not within the territorial jurisdiction of the sovereign, under whose authority the captures are made, but within that of a neutral sovereign, whose subjects are no parties to the controversy. And he does not hesitate to decide that the possession of the captor, *jure belli*, of the captured

property, brought into a neutral port, gives to the belligerent sovereign the exclusive right of determining the validity of the seizure, thus made and continued under his authority; that the neutral sovereign is bound to respect the possession of the captor as that of his sovereign; and cannot himself undertake to determine the validity of the capture, nor to interfere with the execution of the sentence, either of condemnation or restitution, which may be pronounced by the competent belligerent tribunal, provided such sentence be pronounced without the limits of the neutral territory, within which no foreign power can usurp the rights of sovereignty. Thus the captures made by British cruisers in the Mediterranean, and brought into the neutral port of Leghorn, had ever been adjudicated, either by the British court of vice-admiralty sitting at Minorca whilst that island belonged to Great Britain, or by the High Court of Admiralty in England. It is true that the prize commissioners delegated by these courts were permitted to examine the captured persons and papers of the vessels brought into that port, in order to determine the preliminary question whether there was such probable cause of capture as to warrant further judicial proceedings, in which case the cause was immediately evoked to the competent tribunal sitting in the belligerent country. The only two cases, according to Lampredi, in which the neutral sovereign can interfere through his tribunals to take incidental cognizance of the validity of belligerent captures brought within his territorial jurisdiction are:

1. Where the capture has been made within the neutral territory itself, or by an armament fitted out in the ports of the neutral state in violation of its laws and treaties.

2. Where the captured party complains to the neutral sovereign that his property has been piratically seized by captors, under color of a belligerent commission, to which they are not lawfully entitled: In this case the neutral tribunal may so far interfere as to inquire into the validity of the commission under which the capture was made. (Wheaton, History of the Law of Nations, p. 321.)

Phillimore says:

An attentive review of all the cases decided in the courts of England and the North American United States leads to the conclusion that the condemnation of a capture, by a regular Prize Court, sitting in the country of the belligerent, of a prize lying at the time of the sentence in a neutral port, is irregular, but clearly valid. It appeared to be the inclination of the English Prize Court, during the last war with Russia, to limit to cases of necessity the condemnation of vessels lying in a neutral port. It is scarcely necessary to add, after what has been said as to the former French law on condemnations by judges of the belligerent in neutral ports, that such condemnations of vessels lying in neutral ports are holden valid by the French Prize Courts. (3 Int. Law CCCLXXIX, p. 594.)

Hall offers a very positive opinion in regard to the treatment of prize brought into a neutral port:

The right of the captor to that which unquestionably belongs to his enemy is no doubt complete as between him and his enemy so soon as seizure has been effected; but as between him and a neutral state, as has been already seen, further evidence of definitive appropriation is required, and his right to the property of a neutral trader seized, for example, as being contraband goods or for breach of blockade, is only complete after judgment is given by a prize court. If therefore the belligerent carries his prize into neutral waters, without deposit in a safe place or possession during twenty-four hours in the case of hostile property, or without protection from the judgment of a prize court in the case of neutral property, he brings there property which does not yet belong to him; in other words, he continues the act of war through which it has come into his power. Indirectly also he is militarily strengthened by his use of the neutral territory; he deposits an encumbrance, and by recovering the prize crew becomes free to act with his whole force. Nevertheless, although the neutral may permit or forbid the entry of prizes as he thinks best, the belligerent is held, until express prohibition, to have the privilege not only of placing his prizes within the security of a neutral harbor, but of keeping them there while the suit for their condemnation is being prosecuted in the appropriate court. Most writers think that he is also justified by usage in selling them at the neutral port after condemnation; and, as they then undoubtedly belong to him, it is hard to see on what ground he can be prohibited from dealing with his own. But it is now usual for the neutral state to restrain belligerents from bringing their prizes into its harbors, except in cases of danger or of want of provisions, and then for as short a time as the circumstances of the case will allow; and it is impossible not to feel an ardent wish that a practice at once wholesome and consistent with principle may speedily be transformed into a duty. (Int. Law, 5th ed., p. 618.)

In Atlay's recent edition of Wheaton the subject is also reviewed:

During the American civil war a captor, who brought his prizes into British waters, was to be requested to depart and remove such prizes immediately. A vessel *bona fide* converted into a ship of war was, however, not to be deemed a prize. In case of stress of weather, or other extreme and unavoidable necessity, the necessary time for removing the prize was to be allowed. If the prize was not removed by the prescribed time, or if the capture was made in violation of British jurisdiction, the prize was to be detained until Her Majesty's pleasure should be made known. Cargoes were to be subject to the same rules as prizes. A subsequent order provided that no ship of war of either belligerent should be allowed to remain in a British port for the purpose of being dismantled or sold.

During the Franco-German war of 1870–1, armed ships of either party were interdicted from carrying prizes made by them into the ports, harbors, roadsteads, or waters of the United Kingdom, or any of Her Majesty's colonies or possessions abroad. A similar rule was made in 1898 and 1904.

While the American civil war was prevailing, France prohibited all ships of war or privateers of either party from remaining in her ports with prizes for more than twenty-four hours, except in case of imminent perils of the sea. No prize goods were permitted to be sold in French territory. Prussia remained content with ordering her subjects not to engage in the equipment of privateers, and to obey the general rules of international law. The Belgian rule commanded all privateers to depart immediately, unless prevented by absolute necessity. (Wheaton's Int. Law, Atlay, 4th ed., secs. 434d, 434e.)

There are, however, many differences of opinion as to the merits of the prohibition of the entrance and sojourn of prize in a neutral port:

Under the general rule a prize may not only be brought into a neutral port, but may also be kept there until duly condemned by a Prize Court sitting in the belligerent's own territory. This clearly amounts to a permission to make military use of neutral territory, and is only justified in that it is granted impartially to both belligerents.

On the whole it seems likely that the practice of excluding the prizes of both sides, except in cases of necessity, will be adhered to in future. Such a course is, in fact, almost a necessary corollary of the strict rules which either already regulate, or are likely to regulate, the admission of belligerent public vessels other than prizes into neutral waters and ports in time of war. These rules as to recruitment, coaling, and such matters are discussed in detail in Chapter III.

Speaking generally, it may be said that just as a neutral State's right of "inviolability of territory" is overshadowed by its duty of impartiality, which compels it to protect and enforce that right, so is its right of hospitality overshadowed by the duty of preventing its territory or ports from being made a theatre of warlike operations by either of the belligerents. (Risley, Law of War, 176.)

Pradier-Fodéré states the present practice in regard to jurisdiction over prizes as follows:

C'est généralement au commencement des guerres que se sont constitués les tribunaux de prises. Ces tribunaux ne peuvent siéger que dans les pays belligérants; leur création est, en effet, un acte motivé par la guerre. Les États neutres ne sont conséquemment pas appelés à en instituer, et peuvent ne pas tolérer que les belligérants exercent sur leur territoire la jurisdiction des prises. Les agents consulaires des belligérants à l'étranger n'ont plus aujourd'hui le droit de juger les prises qui seraient conduites en relâche forcée dans les ports neutres de

leur consulat, ils ne peuvent que procéder à l'instruction. Si un État belligérant avait la prétention de conférer à ses envoyés diplomatiques ou à ses consuls près les États neutres, le droit d'exercer une juridiction sur les prises, ces États auraient donc le droit incontestable de s'y opposer et de ne tolérer sur leur territoire l'exécution d'aucune mesure ordonnée par le belligérant. (8 Droit Int. Public, sec. 3201, p. 764.)

Dana's note to Wheaton's International Law presents very clearly the practice in 1866 in regard to the place of prize at time of condemnation:

As it is not necessary to the jurisdiction of a prize court that the prize should be in existence, it would seem to be unnecessary that it should be within its custody. Yet, for a long time, this was a vexed question of international law. Where a prize is not fit for a voyage to a place of adjudication, and yet may be of value, it is customary to sell her. The statutes of the United States assume, that a captor, or any national authority, may sell in a case of necessity, rather than destroy the vessel; and that the Government may itself take a prize into its service, in a case of belligerent necessity, or if it is unseaworthy for a voyage to a port of adjudication. (Act 1864, ch. 174, p. 28.) In the one case it is the duty of the captor to send the proceeds of the prize to the prize court, and in the other of the Government to deposit the value for adjudication in lieu of the prize itself. (Ibid.) It is believed that this practice is sanctioned by the law of nations.

As to a prize in a neutral port, writers seem often to have confounded the duty of the captor with the jurisdiction of the court. The duty of the captor is to send his prize to a port of his own country, that the prize tribunal may have it within its custody, not only for a fairer investigation of evidence—often derivable from the vessel and cargo itself—but also to diminish the risks of concealment or destruction, by the captors, of evidence or property, and to insure a fair sale for full value in case of condemnation, or a more speedy and satisfactory restitution. The captor must give some reason of necessity for leaving his prize in a neutral port, or, as before stated, for not bringing it in. But, irrespective of the advantages or disadvantages to claimants or captors, on the bare question of the capacity of the court to take cognizance of a cause where the prize is not bodily in its custody, and yet is in existence, there seems to be now no doubt. (For analogous cases in civil proceedings, see Hudson *v.* Guestier, Cranch, iv, 293; Ib., vi, 281; and Rose *v.* Himely, Cranch, iv, 241.) Whether a court will exercise its functions in any given case of an absent prize, is a different question, and one of discretion, upon circumstances.

Whether a prize may or may not be taken into or remain in a neutral port to await proceedings at home, or for sale by captors, or for any other purpose, is a question for the neutral sovereign to decide. Consular prize courts, in neutral States, are not now recognized by nations. The locality of the court must be in the territory of the belligerent.

This was first decided politically by Washington's Cabinet, in the case of the prizes taken by M. Genet's privateers (American State Papers, i, 144); and judicially by the Supreme Court, in the *Betsey* (Dallas, iii, 6); and afterwards by Sir William Scott, in the *Flad Oyen* (Rob. i, 135). It is within the fortunes of war, whether the captor shall be able to get his prize into a home port. It is obviously for the interest of neutrals to require such a course, and to object to all adjudication on absent prizes, except in cases of necessity.

The modern practice of neutrals prohibits the use of their ports by the prizes of a belligerent, except in cases of necessity; and they may remain in the ports only for the meeting of the exigency. The necessity must be one arising from perils of the seas, or need of repairs for seaworthiness, or provisions and supplies. Increase of armament is prohibited. The neutral will protect the prize against pursuit from the same port for twenty-four hours, and against capture within his waters; but, beyond that, the general peril of war, arising from the power or vigilance of the other belligerent, does not constitute a necessity which the neutral recognizes as justifying a remaining in his port. This rule, if adhered to, will prevent the arising of a custom of retaining prizes in safety in a neutral port, until they can be condemned in the home port, in their absence. But, apart from any such practice of neutrals, it seems clear, that to allow prizes to fly to a neutral port, and remain there in safety while prize proceedings are going on in a home port, would give occasion to nearly all the objections that exist against prize courts in neutral ports. It seems, therefore, to be the tendency, if not the settled rule, now, that a decree of condemnation will not be passed against prizes remaining abroad, unless in case of necessity, or if passed, will not be respected by other nations.

This résumé of the opinion in 1866 fairly represented American and British opinion at the beginning of the twentieth century.

Instructions in regard to the bringing in of prize.—The instructions issued to the commanders of British war vessels on April 15, 1854, were as follows:

The commanders of Her Majesty's ships and vessels of war shall send all ships, vessels, and goods which they shall seize and take into such port within Her Majesty's dominions, as shall be most convenient for them, in order to have the same legally adjudged at the High Court of Admiralty of England or in some other admiralty court lawfully authorized to take cognizance of matters of prize.

The Instructions Complémentaires issued by France in 1870 contains the following clause:

14. Envoi de prises dans les ports français—Les prises sont exclusivement dirigées sur les ports de France ou des possessions françaises. En cas de force majeure seulement, elles peuvent entrer dans les ports

neutres pour réparation d'avaries ou ravitaillement. Elles n'y séjournent que le temps nécessaire à ces opérations.

17. Prise conduite dans un port étranger—Lorsqu'une prise est conduite dans un port étranger où elle peut être admise, le conducteur de la prise représente les capteurs dans l'instruction consulaire.

18. Refus d'admission—Presque toutes les puissances assimilent les prises aux bâtiments de guerre des belligérants et ne les admettent pas dans leurs ports, si ce n'est en cas de relâche forcée, et pour une période de temps très courte.

Le conducteur d'une prise doit toujours, en pareil cas, déférer aux invitations qui lui sont adressées par le gouvernement du pays où il se trouve. Il agit alors au mieux des intérêts dont il est chargé et rend compte, sans délai, au ministre de la marine du refus d'admission qu'il a essuyé.

The British regulations issued in 1888 provide:

298. If the surveying officers report that the vesesl is not in a condition to be sent into a proper port of adjudication, the commander should, if practicable, take her into the nearest neutral port that may be willing to admit her.

299. The commander, however, must bear in mind that he can not take the vessel into a neutral port against the will of the local authorities; and that under no circumstances can proceedings for adjudication be instituted in a neutral country.

300. Both the cruiser and, if admitted, her prize are by the comity of nations exempt from the local jurisdiction.

301. If the vessel is admitted into a neutral port, then, in order that proceedings for adjudication may be duly instituted, the commander should forward the witnesses, together with the vessel's papers and necessary affidavits, in charge of one of the officers of his ship to the nearest British prize court. (Manual of Naval Prize Law, p. 85.)

The following instructions were issued as General Order 492, by the Navy Department of the United States during the Spanish-American war in 1898:

Sending in of prizes. 20. Prizes should be sent in for adjudication, unless otherwise directed, to the nearest home port in which a prize court may be sitting.

21. The prize should be delivered to the court as nearly as possible in the condition in which she was at the time of seizure; and to this end her papers should be sealed at the time of seizure and kept in the custody of the prize master. Attention is called to articles numbers 16 and 17 for the government of the United States Navy (Exhibit A).

22. All witnesses whose testimony is necessary to the adjudication of the prize should be detained and sent in with her, and if circumstances permit it is preferable that the officer making the search should act as prize master.

23. As to the delivery of the prize to the judicial authority, consult sections 4615, 4616, and 4617, Revised Statutes of 1878 (Exhibit B). The papers, including the log book of the prize, are delivered to the prize commissioners; the witnesses, to the custody of the United States marshal; and the prize itself remains in the custody of the prize master until the court issues process directing one of its own officers to take charge.

24. The title to property seized as prize changes only by the decision rendered by the prize court. But if the vessel itself, or its cargo, is needed for immediate public use, it may be converted to such use, a careful inventory and appraisal being made by impartial persons and certified to the prize court.

Provisions in recent neutrality proclamations.—The attitude of the leading States of the world in regard to the bringing of prize and its sojourn in a neutral port is shown in the neutrality proclamations issued during the Spanish-American war of 1898 and Russo-Japanese of 1904. In most cases the terms of the proclamations are identical in both wars.

Brazil, 1898:

VI. No war ship or privateer shall be permitted to enter and remain, with prizes, in our ports or bays during more than twenty-four hours, except in case of a forced putting into port, and in no manner shall it be permitted to it to dispose of its prizes or of articles coming out of them.

By the words "except in case of a forced putting into port," should also be understood that a ship shall not be required to leave port within the said time: First. If it shall not have been able to make the preparations indispensable to enable it to go to sea without risk of being lost. Second. If there should be the same risk on account of bad weather. Third. And, finally, if it should be menaced by an enemy.

In these cases, it shall be for the Government, at its discretion, to determine, in view of the circumstances, the time within which the ship should leave.

VII. Privateers, although they do not conduct prizes, shall not be admitted to the ports of the Republic for more than twenty-four hours, except in the cases indicated in the preceding section.

Denmark, 1898:

Third. The ports and territorial waters of the islands shall be closed to the prizes of either belligerent, except when they are found in cases of distress.

Dutch West Indies, 1898:

ART. 3. The vessels of war or privateers of the belligerents are not permitted to enter the ports or roadsteads of the colony with prizes,

except in the case of accidents of the sea or want of provisions. As soon as the reasons for their admission have ceased to exist, they must depart immediately. They will not be permitted to take on board more provisions than they require in order to reach the nearest port of the country to which they belong, or that of one of its allies in the war. They shall not be supplied with coal so long as they are in possession of prizes. If vessels of war chased by the enemy take refuge in the territory of the colony, their prizes must be released.

ART. 4. The sale, exchange, or giving away of prizes or of articles taken therefrom, as also of captured goods, is prohibited in the ports, the roadsteads, and the territorial waters of the colony.

ART. 5. Ships and vessels of war, admitted in accordance with articles 1, 2, and 3, must not remain in the ports or roadsteads of the colony longer than therein provided. If, however, ships or vessels of war or others belonging to the belligerents should happen to be in the same port or roadstead of the colony, an interval of at least twenty-four hours must elapse between the departure of a ship or ships, or of a vessel or vessels, of one of the belligerents, and the subsequent departure of a ship or ships, or of a vessel or vessels, of the other. This interval may be lengthened according to circumstances.

France, 1898:

The Government of the Republic declares and notifies whomsoever it may concern that it has decided to observe a strict neutrality in the war which has just broken out between Spain and the United States.

It considers it to be its duty to remind Frenchmen residing in France, in the colonies and protectorates, and abroad, that they must refrain from all acts which, committed in violation of French or international law, could be considered as hostile to one of the parties, or as contrary to a scrupulous neutrality. They are particularly forbidden to enroll themselves or to take service either in the army on land or on board the ships of war of one or the other of the belligerents, or to contribute to the equipment or armament of a ship of war.

The Government decides in addition that no ship of war of either belligerent will be permitted to enter and to remain with her prizes in the harbors and anchorages of France, its colonies and protectorates, for more than twenty-four hours, except in the case of forced delay or justifiable necessity.

No sale of objects gained from prizes shall take place in the said harbors and anchorages.

Great Britain, 1898:

Rule 4. Armed ships of either belligerent are interdicted from carrying prizes made by them into the ports, harbors, roadsteads, or waters of the United Kingdom, the Isle of Man, the Channel Islands, or any of Her Majesty's colonies or possessions abroad.

Italy, laws of April 6, 1864, and June 16, 1895, published with neutrality proclamation of 1898:

Decree of April 6, 1864:

ARTICLE I. No vessel of war or armed for cruising of any belligerent state shall be allowed to enter and remain with prizes in the ports or roadsteads of the kingdom, except in the case of arrival under stress.

Decree of June 16, 1895:

ART. 12. Foreign ships of war and merchantmen armed for cruising are forbidden to bring prizes into, or to arrest and search vessels in, the territorial sea or in the sea adjacent to the Italian islands, as well as to commit other acts which constitute an offense to the rights of state sovereignty.

Japan, 1898:

4. No man-of-war or other ships used for warlike purposes, belonging to one or the other of the belligerent powers, shall be permitted to take any captured vessel into the territorial waters of the Empire, except under stress of weather, or on account of destitution of articles necessary for navigation, or of disablement. In the last-mentioned case, it is not permissible under whatever pretext to land any prisoner of war or to dispose of the captured vessel or articles.

Netherlands, 1898:

ART. 3. The ships of war or privateers of the parties at war shall not enter Netherlands' ports or sea channels with prizes, except in case of dangers of the sea or lack of provender.

As soon as the reason for their admittance has ceased to exist, they shall move off.

They shall not be allowed to ship more provender than is necessary to permit of their reaching the nearest port of the country to which the ship belongs, or that of one of its allies.

Coal shall not be supplied them so long as they are in possession of prizes.

If ships of war, pursued by the enemy, seek a refuge within our territory, they shall liberate the prizes.

ART. 4. The sale, exchange, and free disposal of prizes or of articles coming thence, as also of booty, is prohibited in the ports, roads, sea channels, and in the territorial waters of the Netherlands.

ART. 5. Ships and vessels of war, which in virtue of articles 1, 2, and 3 are admitted, shall not remain in our ports, roads, or sea channels beyond the time therein indicated.

Portugal, 1898:

ART. 2. The entrance into the ports and waters mentioned in the foregoing article, of privateers and prizes taken by them or by any vessels of war of the belligerent powers is likewise forbidden.

Sole paragraph.—Cases of vis major, in which, according to international law, hospitality becomes indispensable, are excepted from the provisions of this article, but the sale of articles obtained from prizes shall not be allowed, and vessels having charge of prizes shall not be permitted to remain for a longer time than is indispensable for them to receive the necessary aid.

China, 1904:

32. War vessels and transports of belligerents must not bring ships which they have captured into a Chinese port. But should they be seeking shelter from a storm or desiring to repair damages or buy necessary provisions, and there really be no alternative course, they shall be exempted from this prohibition, and immediately upon the conclusion of their business they must take their departure. During their stay, however, they must not land their captives nor sell captured vessels or materials.

Denmark, 1904:

Paragraph 3. Privateers will not be permitted to enter Danish harbors nor to lie in a Danish roadstead.

Prizes must not be brought into a Danish harbor or roadstead except in evident case of stress, nor must prizes be condemned or sold therein.

Netherlands, 1904:

ART. 3. War ships or privateers shall not be admitted to the harbors or outlets of the Netherlands Indies when accompanied by prize, except in the case of distress or want of provisions. As soon as the reason for their entry is passed they shall leave immediately. They shall not ship more provisions than is necessary for them to reach the nearest harbor of the country to which they belong, or that of one of their allies in the war. So long as they keep prizes coal shall not be supplied them. When war ships pursued by the enemy shall seek shelter in Netherlands Indies waterways they shall abandon their prizes.

ART. 4. The sale and exchange and distribution of prizes or of articles derived thence, as also of booty, shall not be allowed in the harbors, roads, in the outlets, and the territorial waters of the Netherlands Indies.

Sweden, 1904:

The King has decided—

* * * * * * *

3rd. To forbid entrance into the ports and roadsteads of Sweden and Norway, except in case of distress, of prizes as well as their condemnation or sale therein.

The question of sequestration of prize in a neutral port at the Hague Conference, 1907.—Great Britain in the

propositions presented to the Second Hague Conference in 1907 did not favor the admission of prize within neutral jurisdiction.

(26) Une puissance neutre ne pourra permettre sciemment à un belligérant d'amener une prise dans sa juridiction que si la prise à court de combustibles ou de provisions ou si elle se trouvait en péril en raison de son innavigabilité ou de mauvais état de la mer. La puissance neutre ne permettra pas sciemment à une prise de faire des chargements de munitions, de combustibles ou de provisions ou de réparer ses avaries au delà de ce qui serait nécessaire pour lui permettre de gagner le port le plus proche du pays belligérant: la puissance neutre devra notifier à la prise qu'elle ait à partir aussitôt que possible après avoir effectué les réparations nécessaires.

(27) Toute prise belligérante amenée dans des eaux neutres pour échapper à la poursuite de l'ennemi sera relâchée avec ses officiers et son équipage par la puissance neutre mais l'équipage mis à bord de la prise par le capteur sera interné.

It was argued at the Second Hague Conference that the granting of the right of sequestration of a captured neutral vessel in a neutral port would remove the temptation to destroy the captured vessel if from remoteness or other reason it is difficult to send the vessel to a home port. The American and British practice has been to release a neutral vessel that could not for any reason be brought to a prize court.

Sir Ernest Satow, of the British delegation, said of this Article 23 of the Convention concerning the Rights and Duties of Neutral Powers in Naval War:

L'article en question ne fait aucune mention de la différence fondamentale existant entre les prises ennemies et les prises neutres.

Le droit international reconnaît au belligérant le droit de couler les navires marchands de l'ennemi, la capture les ayant rendu la propriété de l'État capteur qui peut, en conséquence, en disposer à son gré. S'il les coule, lui seul en supporte la perte, le propriétaire ayant été dépossédé par le fait même de la capture. Permettre en conséquence à un belligérant de conduire une prise ennemie dans un port neutre, c'est lui accorder la faculté de se servir de ce port pour son avantage particulier.

En ce qui concerne les prises neutres, l'adoption de l'article 23 impliquerait l'abandon du principe qui est nôtre et en vertu duquel ces prises devraient être relâchées.

L'article 23 a été proposé, si je ne me trompe, par la Délégation italienne dans l'espoir que son adoption faciliterait la retraite à ceux qui soutiennent le droit de détruire les prises neutres dans certains cas de

force majeure. Puisque les deux comités de rédaction sont ici en présence, il n'y a rien d'irrégulier à citer ce qui a été dit au sein du Comité de la Quatrième Commission. Dans la séance du 28 août un des Délégués a dit "qu'il est certain que la proposition aura pour effet de restreindre les cas où la destruction sera une mesure nécessaire, mais elle ne les fera pas tous disparaître, il restera en particulier celui de la proximité de l'ennemi et celui du chargement de contrabande absolue." Un autre a dit que "la proposition ne suffira pas à faire disparaître la destruction des prises neutres: 1°. parce qu'il n'est pas sûr que les ports neutres acceptent d'être séquestres; 2°. parcequ'il y a des cas où il est impossible d'amener le navire dans le port neutre; par exemple si le mauvais état du bâtiment en rend la conduite impossible où si l'approche des forces ennemies ou d'autres raisons en font craindre la reprise ou si l'équipage du vaisseau de guerre est insuffisant pour amariner convenablement le bâtiment.

Ces deux déclarations, qui ne manquent pas de clarté, démontrent le peu d'avantage qu'on retirerait de l'adoption de l'article en question. De plus, il y aurait danger pour le neutre à admettre les prises dans ses ports des belligérants. En effet un belligérant ne verra pas avec indifférence interner les prises faites par l'ennemi dans le port d'un neutre. Il est donc à craindre que d'une telle situation ne s'ensuivent des complications graves entre l'État neutre et l'État belligérant qui croirait avoir à se plaindre.

Il est vrai que les auteurs du projet laissent au neutre la faculté de fermer ses ports aux prises des belligérants, mais c'est là une liberté d'action dont il lui sera bien difficile et dangereux de se servir et que, par conséquent, il ferait bien de ne pas exercer. Je me vois donc dans la nécessité de voter contre l'article 23, même au risque de perdre l'appui de la Délégation italienne pour notre proposition au sujet de la destruction des prises neutres.

In the vote upon this article 23, Germany, Belgium, Brazil, France, Italy, Netherlands, Russia, Servia, and Sweden favored the article; Great Britain and Japan voted against it; and the United States, Austria-Hungary, Denmark, Spain, Norway, and Turkey refrained from voting.

Attitude of the United States as to sequestration of prize in a neutral port.—Article 23 of the Convention concerning the Rights and Duties of Neutral Powers in Naval War, The Hague, 1907, was as follows:

A neutral power may allow prizes to enter its ports and roadsteads, whether under convoy or not, when they are brought there to be sequestrated pending the decision of a prize court. It may have the prize taken to another of its ports.

If the prize is convoyed by a war ship, the prize crew may go on board the convoying ship.

If the prize is not under convoy, the prize crew are left at liberty.

The report of the delegates of the United States to the Hague Conference of 1907 briefly summarizes the American attitude toward such a rule and shows its possibilities of abuse:

Articles 21 to 25 relate to the admission of prizes to neutral ports. Articles 21 and 22 seem to be unobjectionable. Article 23 authorizes the neutral to permit prizes to enter its ports and to remain there pending action on their cases by the proper prize courts. This is objectionable, for the reason that it involves a neutral in participation in the war to the extent of giving asylum to a prize which the belligerent may not be able to conduct to a home port. This article represents the revival of an ancient abuse and should not be approved. In this connection it is proper to note that a proposition absolutely forbidding the destruction of a neutral prize, which was vigorously supported by England and the United States, failed of adoption. Had the proposition been adopted, there would have been some reason for authorizing such an asylum to be afforded in the case of neutral prizes.

The United States ratified the Convention concerning the Rights and Duties of Neutral Powers in Naval War, on April 17, 1908, with the following reservations:

Resolved (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the adherence of the United States to a convention adopted by the Second International Peace Conference held at The Hague from June 15 to October 18, 1907, concerning the rights and duties of neutral powers in naval war, reserving and excluding however Article XXIII thereof, which is in the following words: "A neutral power may allow prizes to enter its ports and roadsteads, whether under convoy or not, when they are brought there to be sequestrated pending the decision of a prize court. It may have the prize taken to another of its ports. If the prize is convoyed by a war ship, the prize crew may go on board the convoying ship. If the prize is not under convoy, the prize crew are left at liberty."

Resolved, further, That the United States adheres to this convention with the understanding that the last clause of Article III implies the duty of a neutral power to make the demand therein mentioned for the return of a ship captured within jurisdiction and no longer within that jurisdiction.

Article XXVIII of the Convention concerning the Rights and Duties of Neutral Powers in Naval War provides that—

The provisions of the present convention do not apply except to the contracting powers, and then only if all the belligerents are parties to the convention.

As regards Article XXIII allowing sequestration of prize in a neutral port pending decision by a prize court, the United States is not a contracting party and therefore the convention does not apply. As the convention applies "only if all the belligerents are parties to the convention," it would not be applicable so far as France is concerned even if France and State X were both parties to the convention. In this question it would therefore be, in the words of the convention, "expedient to take into consideration the general principles of the law of nations."

"Taking into consideration the general principles of the law of nations," as the preliminary articles of the convention advise, it would be possible, in accord with certain opinions and precedents, to take the captured vessel into the French port to be sequestrated, provided France allowed such action. The convention by Article XXIII does not make it obligatory to allow prize to be thus brought in, but only permits a state to grant the privilege. In case of such grant, it would be directly contrary to the spirit of the preceding articles, which provide—

ARTICLE XXI.

A prize may only be brought into a neutral port on account of unseaworthiness, stress of weather, or want of fuel or provisions.

It must leave as soon as the circumstances which justified its entry are at an end. If it does not, the neutral power must order it to leave at once; should it fail to obey, the neutral power must employ the means at its disposal to release it with its officers and crew and to intern the prize crew.

ARTICLE XXII.

A neutral power must, similarly, release a prize brought into one of its ports under circumstances other than those referred to in Article XXI.

The United States is a party to the above articles, but not to Article XXIII, which permits sequestration. Articles XXI and XXII may therefore be taken as showing the attitude of the United States Government in regard to the sending in of prize. The commander of the war ship making the capture of the merchant

ship should not therefore take the merchant ship into a neutral port to be sequestrated pending the action of the prize court. He should observe the principles followed in recent United States practice, as shown in General Order 492 of the Navy Department in 1898, and in the action of the Government in adherence to the Convention concerning the Rights and Duties of Neutral Powers in Naval War.

CONCLUSION.

The commander should not take the prize into French port to be sequestrated pending prize proceedings unless instructed. He should act in accord with General Orders 492 of the Navy Department, 1898.

20. Prize should be sent in for adjudication, unless otherwise directed, to the nearest home port in which a prize court may be sitting.

Situation IV.

COALING IN NEUTRAL WATERS.

While there is war between States X and Y and other States are neutral, a war vessel of State X coals from a collier just off the coast within three miles of State Z. A month later the same war vessel enters a port of State Z and requests a reasonable supply of coal. This is refused on the ground that the vessel has taken coal within the waters of State Z within three months.

Is the contention of State Z correct?

SOLUTION.

The contention of State Z is correct.

NOTES ON SITUATION IV.

Wording of the Hague Convention respecting the Rights and Duties of Neutral Powers in Naval War.—It has been suggested that the wording of this convention in articles 18, 19, and 20 gives rise to the opinion that what a belligerent may do within neutral waters will depend upon the nature of the control which the neutral may be exercising over the waters, i. e., that certain actions might be prohibited in the ports which would be permitted in the roadsteads; that certain actions would be prohibited in the roadsteads which would be allowed in outer territorial waters.

This opinion is based on the decreasing area of prohibition mentioned in the successive articles.

The prohibition in Article XVIII of this convention is comprehensive.

> Belligerent war ships may not make use of neutral ports, roadsteads, or territorial waters for replenishing or increasing their supplies of war material or their armament, or for completing their crews.

The inclusion of the words "territorial waters" was at the suggestion of the British delegate in order to conform to the second rule of the treaty of Washington and shows that the prohibition was intended to be general.

The prohibition in Article XIX is less extended and extends to "neutral ports or roadsteads."

ART. XIX. Belligerent war ships may only revictual in neutral ports or roadsteads to complete their supplies up to amount usual in time of peace.

Similarly these vessels may only ship sufficient fuel to enable them to reach the nearest port of their country. They may, however, fill up their bunkers built to carry fuel, when in neutral countries which have adopted this method of determining the amount of fuel to be supplied.

If, in accordance with the law of the neutral power, the ships are not supplied with coal within twenty-four hours of their arrival, the permissible duration of their stay is extended by twenty-four hours.

The prohibition in Article XX extends merely to such ships as have taken coal "in a port belonging to a neutral power."

Belligerent war ships which have shipped fuel in a port belonging to a neutral power may not within the succeeding three months replenish their supply in a port of the same power.

As M. Hagerup pointed out at the Second Hague Conference in 1907, there is a difference between the waters within the jurisdiction of a State and the ports of the state:

Ils existent entre les ports et les eaux territoriales des différences de fait et de droit.

Les différences de fait se font valoir et quant au contrôle et quant aux mesures de réaction qu'il est possible d'y employer.

Ils peuvent y avoir des pays qui ont un littoral très étendu, peu peuplé et entouré des îles et des rochers, comme la Norvège par exemple; il est évident que l'Etat ne pourra dans des eaux territoriales comme celles-ci exercer aucun contrôle efficace.

Les ports sont soumis entièrement à la juridiction et à la souveraineté de l'Etat qui peut en interdire l'entrée à tous les navires.

Pour les eaux territoriales, au contraire, le passage inoffensif des navires est permis même en temps de guerre.

L'étendue d'un port est bien définie; il n'y a aucun doute là-dessus; il n'est pas ainsi pour l'étendue des eaux territoriales, sur laquelle il n'y a pas d'accord général. Cette dernière incertitude existe du reste dans le droit et dans le fait.

Ces différences doivent nécessairement exercer en temps de guerre une influence sur le régime auquel doivent être soumis les ports et les eaux territoriales.

Cela est surtout évident pour ce qui concerne les devoirs des neutres. Si l'on peut prescrire pour les eaux territoriales également que pour

les ports neutres, que les belligérants ne doivent pas se servir d'eux pour ses opérations militaires, les conséquences pour les neutres d'une infraction à cette règle ne peuvent être les mêmes dans les deux cas. Si un neutre tolère qu'un des belligérants dispose de ses ports, ce sera une violation de la neutralité. Mais on ne saurait dire le même du seul fait que le neutre n'a pu empêcher le belligérant de se servir de ses eaux. D'abord le neutre qui veut protéger ses eaux se heurtera dans beaucoup de cas à l'incertitude de l'étendue des eaux territoriales.

Ensuite: Les moyens pour empêcher une telle violation de la mer territoriale sont beaucoup plus difficiles à trouver que pour les ports.

D'autres différences: Les règles sur la fixation d'un délai pour le séjour d'un navire de guerre dans un port neutre ne peuvent pas être établies pour les eaux territoriales. Il est bien difficile de fixer le moment où le navire entre dans les eaux territoriales ou en sort. (3e Commission, 2e sous-commission, 1er août 1907.)

Naval War College discussion, 1906.—The general subject of the supply of coal in neutral ports was considered in the conferences upon international law at this Naval War College in 1906. The summary of the discussions is as follows:

The proposition to limit the supply to the amount necessary to take the ship to the nearest port of her home country, which has been a form often used and was that approved by the Institute of International Law in 1898, leaves much to be desired. The nearest port may not be in the direction in which the vessel may be voyaging, or if it is it may not be a port suitable for the entrance of such a vessel. The gradual change in recent years has shown that this formula is not sufficient. Such words as the following have been added in certain proclamations: "Or to some nearer neutral destination," "or to some nearer named neutral destination," or that coal shall not be supplied to "a belligerent fleet proceeding either to the seat of war or to any position or positions on the line of route with the object of intercepting neutral ships on suspicion of carrying contraband of war."

In most declarations there has been a provision against allowing a neutral port to become a base for equipping a belligerent's vessel with coal, oil, or other supplies. By "base," as thus used, is meant a place to which the vessel frequently returns. The idea of "frequent," as thus used, is generally covered by the prohibition against taking a new supply of coal from the same neutral port till after the expiration of a period of three months. Some states, however, allow such supply within three months provided permission is obtained from the proper authority.

It would seem to be evident that while the supplying of coal to a belligerent is not prohibited by international law though it has been prohibited in many proclamations, yet the supplying of coal at such frequent intervals as would make the neutral port a base is generally

regarded as prohibited by international law, as is practically admitted in the reply of France to Japan in 1905.

It seems to be the general opinion that the supply of fuel, etc., to belligerents should be somewhat restricted in neutral ports.

There are differences of opinion as to the extent of necessary restrictions. Doubtless there would be need of special restriction in special cases. Some degree of freedom should remain to the neutral in making provisions for special conditions. It would seem reasonable that the neutral should not afford a greater supply of coal or oil even for lubricating purposes than an amount sufficient to carry the vessel to the home port. The purpose is to guard against the furnishing of supplies for hostile uses and at the same time not to intern a vessel of a belligerent which may enter a neutral port. It would probably be desirable to restrict the supply of oil for purposes of fuel which would be included under the general head of fuel and for lubricating purposes which makes necessary specific mention of oil.

Considering opinions, precedents, and practice, the following seems a reasonable conclusion: The supply of fuel or oil within a neutral port to vessels in belligerent service in no case shall exceed what is necessary to make the total amount on board sufficient to reach the nearest unblockaded port of the belligerent vessel's own state or some nearer named destination.

The supply may be subject to such other regulations as the neutral may deem expedient.

Neutrality proclamations.—The declaration of neutrality of the United States in the Russo-Japanese war of 1904 was in accord with the declaration in the Franco-Prussian war of 1870:

> No ship of war or privateer of either belligerent shall be permitted, while in any port, harbor, roadstead, or waters within the jurisdiction of the United States, to take in any supplies except provisions and such other things as may be requisite for the subsistence of her crew, and except so much coal only as may be sufficient to carry such vessel, if without any sail power, to the nearest port of her own country; or in case the vessel is rigged to go under sail, and may also be propelled by steam power, then with half the quantity of coal which she would be entitled to receive, if dependent upon steam alone, and no coal shall be again supplied to any such ship of war or privateer in the same or any other port, harbor, roadstead, or waters of the United States, without special permission, until after the expiration of three months from the time when such coal may have been last supplied to her within the waters of the United States, unless such ship of war or privateer shall, since last thus supplied, have entered a port of the government to which she belongs. (U. S. Foreign Relations, 1904, p. 34.)

The proclamation of Sweden and Norway stated that the King had decided to accord war vessels of the belliger-

ents entrance to his ports provided they conformed to certain rules:

In regard to coal, they can only purchase the necessary quantity to reach the nearest nonblockaded national port, or with the consent of the authorities of the King, a neutral destination. Without special permission the same vessel will not be permitted to again purchase coal in a port or roadstead of Sweden or Norway within three months after the last purchase. (Foreign Relations U. S. 1904, p. 31.)

The rules for the maintenance of neutrality in the Netherlands Indies in 1904 restrict the taking in of fuel:

Sufficient provender may be shipped as is necessary for the maintenance of the crew, while the stock of fuel may not exceed an amount necessary for the vessel to reach the nearest harbor of the country to which the vessel belongs or of one of its allies in the war. The same vessel shall not be allowed to return a second time for fuel within a period of three months from the time of the first supply, except special authorization be given thereto.

In the case of privateers more stringent regulations were imposed:

They shall not take in more provisions than is required for them to reach the nearest harbor of the country to which they belong or that of one of their allies in the war, and not more coal than is necessary to provide for their requirements for a period of twenty-four hours, sailing at a maximum of three English miles an hour. Within a period of three months they shall not be provided with coal a second time. (Foreign Relations U. S. 1904, p. 28.)

The Danish neutrality proclamation issued in 1904 provided that:

So much coal only may be taken in as may be necessary to carry such vessels to the nearest nonblockaded home port; or, with permission from the proper Danish authorities, to some other neutral destination. No ship will be permitted, without special authorization, to coal in any Danish harbor or roadstead more than once in the course of three months. (Foreign Relations, U. S. 1904, p. 22.)

The proclamations, decrees, orders, etc., issued during the Spanish-American war in 1898 were in most instances similar to those issued in 1904. Those issued in 1898 varied somewhat in character. The range is shown in the following:

Bermuda, proclamation, May 6, 1898:

Rule C. No supplies will be allowed to any such ship beyond provisions and subsistence for crew necessary for immediate use and no

coal except for the specific purpose (to be satisfactorily shown) of enabling her to proceed direct to the nearest port of her own country or other named nearer neutral destination, nor will coal be supplied to the same ship in any British port twice within three months.

Brazil, circular, April 29, 1898:

X. The movements of the belligerent will be under the supervision of the customs authorities from the time of entrance until that of departure, for the purpose of verifying the proper character of the things put on board.

XI. The ships of belligerents shall take material for combustion only for the continuance of their voyage.

Furnishing coal to ships which sail the seas near Brazil for the purpose of making prizes of an enemy's vessels or prosecuting any other kind of hostile operations is prohibited.

A ship which shall have once received material for combustion in our ports shall not be allowed a new supply there, unless there shall have elapsed a reasonable interval which makes it probable that said ship has returned after having finished its voyage to a foreign port.

XII. It will not be permitted to either of the belligerents to receive in the ports of the Republic goods coming directly for them in the ships of any nation whatever.

This means that the belligerents may not seek ports en route and on account of an unforeseen necessity, while having the intention of remaining in the vicinity of the coasts of Brazil, taking thus beforehand the necessary precautions to furnish themselves with the means of continuing their enterprises. The tolerance of such an abuse would be equivalent to allowing our ports to serve as a base of operations for the belligerents.

Italy, decree of April 6, 1864:

ART. X. Nothing shall be supplied to belligerent ships of war or cruisers excepting provisions, commodities, and things for repairs, simply necessary for the subsistence of their crews and the safety of their voyage. Such belligerent ships of war or cruisers as wish to resupply themselves with coal shall not receive that supply until twenty-four hours after their arrival.

Japan, imperial ordinance, No. 87:

ART. 6. The men-of-war and other ships used for warlike purposes belonging to one or the other of the belligerent powers may get, in the ports of the Empire, supplies of articles necessary for their crews, also coal and other things indispensable to navigation, as well as of materials needed for repairs; but the quantity of such supplies should never exceed that which will be necessary for the purpose of taking such men-of-war and such other ships to the nearest port of their own country. Any of such men-of-war or such other ships which has once obtained a supply of coal shall not be permitted to get another supply until after the lapse of three full months.

Netherlands, Order No. 2, respecting neutrality:

ARTICLE I. * * * Provender may be shipped so far as is necessary for the wants of the crew, while the store of coal shall only be supplemented sufficiently to allow the ship or vessel to reach the nearest port of the country to which it belongs, or that of one of its allies in the war.

The same ship may not be provided a second time with coal, except after a lapse of three months from the first lading, unless special permission be given.

According to the British proclamation:

Rule 3. No ship of war of either belligerent shall hereafter be permitted, while in any such port, roadstead, or waters subject to the territorial jurisdiction of Her Majesty, to take in any supplies, except provisions and such other things as may be requisite for the subsistence of her crew, and except so much coal only as may be sufficient to carry such vessel to the nearest port of her own country, or to some nearer destination, and no coal shall again be supplied to any such ship of war in the same or any other port, roadstead, or waters subject to the territorial jurisdiction of Her Majesty, without special permission, until after the expiration of three months from the time when such coal may have been last supplied to her within British waters as aforesaid.

This rule was amended to read "*nearer named neutral destination,*" in 1904.

Certain explanations of Rule 3 were later issued.

It must, however, be borne in mind that the reason for the practice of admitting belligerent vessels of war into neutral ports arises out of the exigencies of life at sea and the hospitality which it is customary to extend to vessels of friendly powers, and that this principle does not extend to enabling such vessels to utilize a neutral port directly for the purpose of hostile operations. The rule above quoted is not to be understood as having any application to the case of a belligerent fleet proceeding either to the seat of war, or to a position or positions on the line of route, with the object of intercepting neutral vessels on suspicion of carrying contraband of war. Such fleet cannot be permitted to make use in any way of a British port for the purpose of coaling, either directly from the shore, or from colliers accompanying the fleet, whether the vessels of the fleet present themselves at the port at the same time or successively. His Majesty's Government further direct that the same practice be pursued with reference to single belligerent war-vessels, if it be clear that they are proceeding for the purpose of belligerent operations as above defined. This is not to be applied to the case of a vessel putting in on account of actual distress at sea.

The amount of coal which might be supplied to a belligerent warship was defined as so much as may be sufficient to carry such vessel to the nearest port of her own country, or to some nearer named neutral destination—a formula which would, e. g., entitle a Russian ship of war to take on board, say at Aden, an amount of coal sufficient to carry her to

Vladivostok. The practice recognized under this rule, which is based upon considerations of hospitality, ought not, in the opinion of His Majesty's Government, to be extended so as to enable such vessels to make use of a neutral port directly for the purpose of hostile operations. Instructions had accordingly been given that the rule is not to be taken as applying to a belligerent fleet, or to vessels proceeding to the seat of war itself, or to stations from which operations connected with the war might be conducted. (Lord Lansdowne to Sir C. Hardinge, August 16, 1904.)

In the proclamation of the governor of Malta of August 12, 1904, there is a reference to and interpretation of the British rule No. 3, of the proclamation No. 1 of February 12, 1904—

Inasmuch as it refers to the extent of coal which may be supplied to belligerent ships of war in British ports during the present war, shall not be understood as having any application in case of a belligerent fleet proceeding either to the seat of war or to any position or positions on the line of route with the object of intercepting neutral ships on suspicion of carrying contraband of war, and that such fleet shall not be permitted to make use in any way of any port, roadstead, or waters subject to the jurisdiction of His Majesty for the purpose of coaling, either directly from the shore or from colliers accompanying such fleet, whether vessels of such fleet present themselves to any such port or roadstead or within the said waters at the same time or successively; and second, that the same practice shall be pursued with reference to single belligerent ships of war proceeding for purpose of belligerent operations as above defined; provided that this is not to be applied to the case of vessels putting in on account of actual distress at sea, in which case the provision of rule No. 3 as published by proclamation No. 1 of the 12th February, 1904, shall be applicable.

It will be observed that this proclamation specifically announces the principle "that belligerent ships of war are admitted into neutral ports in view of exigencies of life at sea and the hospitality which it is customary to extend to vessels of friendly powers;" and that "this principle does not extend to enable belligerent ships of war to utilize neutral ports directly for the purpose of hostile operations." It is not the intention to extend hospitality to belligerent vessels proceeding to the seat of war or advancing for the purpose of belligerent operations, whether against other belligerents or against neutrals carrying contraband or otherwise involved in the war. In short, the doctrine would seem to involve the privilege

of coaling for navigation to a home port, but no such privilege in order to reach the area of warfare or for direct hostile operations. This position taken by Great Britain is an advanced one. As was said in the discussions of this Naval War College in 1905 (Topic IX, p. 158):

> It can not reasonably be expected that a neutral power will permit its own ports to be used as sources of supplies and coal, using which the belligerent vessel or fleet may set forth to seize the same neutral's commerce or interrupt its trade.

Professor Holland raises the question of supply of coal to a belligerent ship, and briefly summarizes the British practice as follows:

> May she also replenish her stock of coal? To ask this question may obviously, under modern conditions and under certain circumstances, be equivalent to asking whether belligerent ships may receive in neutral harbors what will enable them to seek out their enemy, and to maneuver while attacking him. It was first raised during the American civil war, in the first year of which the Duke of Newcastle instructed colonial governors that "with respect to the supplying in British jurisdiction of articles *ancipitis usus* (such, for instance, as coal), there is no ground for any interference, whatever on the part of colonial authorities." But, by the following year, the question had been more maturely considered, and Lord John Russell directed, on January 31, 1862, that the ships of war of either belligerent should be supplied with "so much coal only as may be sufficient to carry such vessel to the nearest port of her own country, or to some nearer destination." Identical language was employed by Great Britain in 1870, 1885, and 1898, but in the British instructions of February 10, 1904, the last phrase was strengthened so as to run: "Or to some nearer *named neutral* destination." The Egyptian proclamation of February 12, 1904, superadds the requirement of a written declaration by the belligerent commander as to the destination of his ship and the quantity of coal remaining on board of her, and Mr. Balfour, on July 11, informed the House of Commons that "directions had been given for requiring an engagement that any belligerent man-of-war, supplied with coal to carry her to the nearest port of her own nation, would in fact proceed to that port direct." Finally, a still stronger step was taken by the Government of this country, necessitated by the hostile advance toward eastern waters of the Russian Pacific squadron. Instructions were issued to all British ports, on August 8, which, reciting that "belligerent ships of war are admitted into neutral ports in view of the exigencies of life at sea, and the hospitality which is customary to extend to vessels of friendly powers; but the principle does not extend to enable belligerent ships of war to utilize neutral ports directly for the purpose of hostile operations," goes on to direct that the rule previously promulgated, "inasmuch as it refers

to the extent of coal which may be supplied to belligerent ships of war in British ports during the present war, shall not be understood as having any application to the case of a belligerent fleet proceeding either to the seat of war, or to any position or positions on the line of route, with the object of intercepting neutral ships on suspicion of carrying contraband of war, and that such fleets shall not be permitted to make use, in any way, of any port, roadstead, or waters, subject to the jurisdiction of His Majesty, for the purpose of coaling either directly from the shore or from colliers accompanying such fleet, whether vessels of such fleet present themselves to such port or roadstead, or within the said waters, at the same time or successively; and that the same practice shall be pursued with reference to single belligerent ships of war proceeding for the purpose of belligerent operations, as above defined, provided that this is not to be applied to the case of vessels putting in on account of actual distress at sea." (83 Fortnightly Review, 1905, p. 795.

Provisions of the Hague Convention, 1907.—Articles of the Hague Convention concerning the Rights and Duties of Neutral Powers in Naval War provide that—

ART. XVIII. Belligerent war ships may not make use of neutral ports, roadsteads, or territorial waters for replenishing or increasing their supplies of war material or their armament, or for completing their crews.

ART. XIX. Belligerent war ships may only revictual in neutral ports or roadsteads to bring up their supplies to the peace standard.

Similarly these vessels may only ship sufficient fuel to enable them to reach the nearest port in their own country. They may, on the other hand, fill up their bunkers built to carry fuel, when in neutral countries which have adopted this method of determining the amount of fuel to be supplied.

If, in accordance with the law of the neutral power, the ships are not supplied with coal within twenty-four hours of their arrival, the permissible duration of their stay is extended by twenty-four hours.

ART. XX. Belligerent war ships which have shipped fuel in a port belonging to a neutral power may not within the succeeding three months replenish their supply in a port of the same power.

Certain articles of the Hague Convention concerning the Rights and Duties of Neutral Powers in Naval War extend their regulations in specific terms to "neutral ports, roadsteads, and territorial waters." This Article XIX regulating the supply of fuel mentions only "neutral ports and roadsteads."

Report of American delegation.—The report of the United States delegation to the Second International

Peace Conference at The Hague regards article 19 as "an extremely important one," and in commenting on articles 19 and 20 says:

The great powers of the world are susceptible of being grouped into two classes in the matter of neutral policy. England, having great naval power, supplemented by an extensive system of coaling stations and commercial ports, has always favored and practiced a policy of strict neutrality. France, less powerful at sea, having few naval stations and with few distant colonial possessions, has been more liberal in the enforcement of its neutral obligations, and has allowed considerable aid to be extended to belligerent vessels in its ports. As England has treated both belligerents with impartial strictness, France has treated them with impartial liberality. With this view Russia and, to some extent, Germany and Austria, are in sympathy. As has been seen, the policy of the United States has been in the main similar to that of Great Britain.

In the matter of coal, the English delegation proposed that the amount of coal which a belligerent vessel might obtain in a neutral port should be restricted to quarter bunkers. The substantial operation of this rule would be that any public armed vessel that entered a neutral port short of coal would have to be interned until the close of the war, as it would be impossible, in a majority of cases, to reach a home port with so meager an allowance of coal as quarter-bunker capacity. This proposition was rejected, as were a number of suggestions based upon bunker capacity, condition of bottoms, etc., which were so complicated as to be practically impossible in their application.

The result was to reach the compromise which is stated in article 19, as to which it may be said that the liberal States have yielded rather more than those whose policy is one of strict neutrality. The article represents, it would seem, the most satisfactory conclusion possible for the conference to reach.

Propositions and discussions at The Hague, 1907.—Two questions were before the second subcommission of the third commission of the Second Hague Conference in 1907, and to these questions certain states gave replies.

XII. *Dans quelle mesure pourront-ils s'y approvisionner de vivres et de charbon?*

ESPAGNE.

ART. 5. Les vaisseaux belligérants ne pourront, pendant leur séjour dans les ports ou les eaux neutres, charger du matériel de guerre, ni aucun approvisionnement de nature à augmenter leur force militaire. Ils pourront, toutefois, se pourvoir des vivres et du charbon nécessaires pour atteindre le port le plus rapproché de leur pays ou un port neutre plus proche encore.

GRANDE-BRETAGNE.

(17) Une puissance neutre ne devra pas permettre sciemment à un navire de guerre d'un belligérant se trouvant dans sa juridiction de prendre à bord des munitions, vivres ou combustibles si ce n'est dans le cas où les munitions, vivres ou combustibles déjà à bord du navire ne lui suffiraient pas pour gagner le port le plus proche de son propre pays: la quantité de munitions, vivres ou combustibles chargés à bord du navire dans la juridiction neutre ne devra en aucun cas dépasser le complément nécessaire pour lui permettre de gagner le port le plus proche de son propre pays.

JAPON.

IV. Les navires belligérants ne pourront dans les ports ou les eaux neutres, ni augmenter leurs forces de guerre, ni faire de réparations sauf celles qui seront indispensables à la sécurité de leur navigation, ni charger aucun approvisionnement excepté du charbon et des provisions suffisant avec ce qui reste encore à bord pour les mettre à même d'atteindre à une vitesse économique le port le plus rapproché de leur pays ou une destination neutre plus proche encore.

RUSSIE.

VII. Il est interdit aux bâtiments de guerre des Etats belligérants, pendant leur séjour dans les ports et les eaux territoriales neutres, d'augmenter, à l'aide de ressources puisées à terre, leur matériel de guerre ou de renforcer leur équipage.

Toutefois les bâtiments susmentionnés pourront se pourvoir de vivres, denrées, approvisionnements, charbon et moyens de réparation nécessaires à la subsistance de leur équipage ou à la continuation de leur navigation.

Aucun pilote ne peut être fourni à ces bâtiments sans l'autorisation du Gouvernement neutre.

XIII. *Un second approvisionnement dans le même pays neutre doit-il être permis sans qu'il y ait lieu de fixer un délai?*

ESPAGNE.

Article 5, alinéa 2. Le vaisseau belligérant qui se serait approvisionné dans un port neutre, ne pourra plus le faire dans aucun port du même pays neutre qu'après un laps de temps de trois mois.

GRANDE-BRETAGNE.

(18) Une puissance neutre ne devra pas permettre sciemment à un navire de guerre d'un belligérant se trouvant dans sa juridiction de s'approvisionner de charbon, si le navire a déjà, dans les trois mois qui précèdent, fait du charbon dans les eaux de la dite puissance neutre.

Among the regulations tentatively proposed at the Second Hague Conference, 1907, in regard to belligerent vessels in time of war were:

ESPAGNE.

ARTICLE 1. Il ne sera pas permis aux vaisseaux de guerre d'entrer ou de séjourner dans les ports ou les eaux neutres, en les prenant comme base d'opérations de guerre, quelle que soit la nature de ces opérations.

JAPON.

I. Il est interdit aux navires belligérants de se servir des ports et des eaux neutres soit comme lieu d'observations ou de rendez-vous soit comme bases d'opérations de guerre ou de buts militaires de toute nature.

RUSSIE.

II. Tout acte d'hostilité est interdit aux bâtiments de guerre appartenant à un Etat belligérant pendant leur séjour dans les ports et les eaux territoriales neutres.

III. Est également interdit aux dits bâtiments de se servir des ports et des eaux territoriales neutres comme de bases d'opérations de guerre.

At the time of the discussion of the matter of rights and duties of neutrals in time of war at the Hague Conference in 1907 various propositions were submitted.

Great Britain:

(2) Tout belligérant est tenu de respecter les droits souverains d'un Etat neutre et de s'abstenir, dans le territoire ou les eaux territoriales d'un neutre, de tout acte qui, s'il était commis avec la permission expresse du Gouvernement neutre, constituerait un manquement de neutralité.

The Japanese *projet* in regard to ships of the belligerents in neutral waters submitted to the Hague Conference on July 2, 1907, provided that—

IV. Les navires belligérants ne pourront dans les ports ou les eaux neutres, ni augmenter leurs forces de guerre, ni faire de réparations sauf celles qui seront indispensables à la sécurité de leur navigation, ni charger aucun approvisionnement excepté du charbon et des provisions suffisant avec ce qui reste encore à bord pour les mettre à même d'atteindre à une vitesse économique le port le plus rapproché de leur pays ou une destination neutre plus proche encore.

V. Ni les navires belligérants se rendant sur le théâtre de la guerre ou se dirigeant vers cette même direction ou vers la zône des hostilités existantes, ni ceux dont la destination est douteuse ou inconnue, ne pourront faire de réparations ou d'acquisitions de charbon ou de provisions dans les ports ou les eaux neutres.

VI. Les navires belligérants qui séjourneront dans les ports ou eaux neutres au-delà de la limite du délai admise par les règles ci-dessus, qui feront acquisition d'autres provisions que celles qui sont admises par lesdites règles, ou qui violeront d'une façon ou d'une autre les limitations ou restrictions imposées par lesdites règles, seront désarmés et internés pendant le reste de la guerre par les Puissances neutres auxquelles appartiennent ces ports ou eaux.

Sir Ernest Satow, on August 1, formally placed before the subcommittee of the third commission at the Hague Conference of 1907 his opinion.

XII. *Dans quelle mesure pourront-ils s'y approvisionner de vivres et du charbon?*

L'examen des règlements adoptés par les différentes nations nous prouve qu'en tant qui concerne l'approvisionnement du charbon, on est maintenant disposé à permettre qu'une quantité soit mise à bord du navire belligérant qui lui permettra de gagner le port le plus proche de son propre pays, ou, dans certaines circonstances, le port le plus proche d'un Etat neutre. On y a ajouté aussi la règle que le navire belligérant ne devra pas s'approvisionner de charbon si, dans les trois mois qui précèdent, le dit navire aura fait du charbon dans un port de la dite Puissance neutre. Les Puissances qui ont adopté ce règlement sont: la Hollande, la Belgique, le Danemark, les Etats-Unis d'Amérique, la Grande-Bretagne, le Japon, la Norvège et la Suède.

L'Italie exige que l'approvisionnement du charbon ne se fasse qu'après un délai de 24 heures après l'arrivée du navire. L'usage adopté par le Brésil exige que le navire ne fasse pas du charbon au delà de ce qui est strictement nécessaire pour lui permettre de continuer son voyage; l'approvisionnement de charbon est interdit à tout navire destiné à croiser dans les mers voisines dans le but de capturer les vaisseaux ennemis ou de se livrer à des opérations de guerre quelconques.

De plus il n'est permis au navire belligérant de faire du charbon une deuxième fois dans un port brésilien, que s'il s'est écoulé un laps de temps permettant de croire que le navire après s'être éloigné des côtes du Brésil, y est revenu après avoir exécuté le voyage auquel il se destinait.

Il est aussi interdit au navire belligérant de recevoir dans les ports de la République des aliments venus directement pour lui sur des navires de n'importe quelle nation; la tolérance d'un tel abus équivaudrait, dans la pensée du Gouvernement brésilien, à permettre que ces ports servent aux belligérants de bases d'opérations.

La même doctrine s'appliquerait probablement au cas d'un navire qui se servirait d'un bateau charbonnier pour s'approvisionner de charbon.

Une autre restriction exercée par le Brésil consiste dans la prohibition d'envoyer, du territoire brésilien, des dépêches télégraphiques

pour annoncer le départ ou l'arrivée prochain d'un navire belligérant, navire de guerre ou navire marchand.

La quantité de vivres qui pourra être pris à bord est soumise dans presque tous les cas aux mêmes conditions que celles qui gouvernent l'approvisionnement du charbon.

Les observations que nous avons faites quant à la situation de ces pays à proximité des principales routes de navigation et quant à l'avantage à ce que des règles universelles sur la durée du séjour soient formulées, sont applicables également au cas où on donnerait à un navire de guerre la permission de s'approvisionner de charbon.

Pour résumer, nous pensons qu'il est préférable, afin d'éviter tout malentendu, que les Puissances s'entendent entre elles au sujet des conditions sous lesquelles il serait permis aux navires belligérants de s'approvisionner et de faire du charbon.

At the same session Captain Burlamaqui presented in the name of the Brazilian delegation certain observations.

Quelques-unes parmi les règles de la neutralité, en ce qui touche le séjour des vaisseaux belligérants dans les ports neutres, semblent être conçues et proposées au profit seulement des Puissances qui ont des ports et des dépôts maritimes dans les différentes parties du monde. Le belligérant qui ne serait pas dans ce cas, se trouverait condamné à une infériorité désastreuse vis-à-vis des autres, particulièrement en ce qui concerne la possibilité de s'approvisionner des combustibles nécessaires au voyage. Ces privilégiés ne font qu'un très petit nombre. Ce serait donc une inégalité flagrante envers la grande majorité des Etats maritimes.

Il nous paraît donc juste de convenir que dans les ports des pays neutres éloignés du théâtre des opérations, les bâtiments de guerre des belligérants soient admis pendant plus de vingt-quatre heures à recevoir du charbon pour des voyages plus longs que ceux consentis sous les règles en vigueur.

Le plus raisonnable serait, nous semble-t-il, de ne pas fixer un limite précis de temps en laissant à la prudence et à la loyauté des neutres d'élargir ou de rétrécir la durée du séjour d'après les circonstances qui sont susceptibles de varier extrêmement.

C'est la solution, adoptée dans les instructions françaises du 26 avril 1898 sur la conduite à tenir à l'occasion de la guerre survenue entre l'Espagne et les Etats-Unis d'Amérique. (Rev. Génér. de Droit International Publ., vol. V, de 1898 docum., pag. 29.)

Nous espérons que la Conférence daignera accorder à la proposition que nous soumettons, l'attention qu'elle semble mériter.

There were two principles in regard to the supply of fuel to a belligerent war vessel in a neutral port which found adherents at the Second Hague Conference. One of these would limit the supply to the amount necessary to reach

the nearest home port, the other would permit the filling of the bunkers to the normal peace capacity.

Admiral Siegel, of the German delegation, said in the discussion of this matter before the subcommittee of the third commission:

Nous nous trouvons devant deux systèmes relatifs à la quantité du charbon que les ports neutres peuvent accorder aux navires de guerre belligérants dans leurs ports et avant de faire votre choix, je vous prie de bien vouloir me permettre de préciser en quelques paroles les differences de ces deux systèmes et leur signification pour les neutres.

Ce que nous voulons, comme neutres, ce qu'il nous faut, c'est de connaître aussi exactement que possible la quantité du charbon qu'on peut donner à un navire belligérant dans nos ports sans être obligé d'entrer dans des recherches inquisitoriales ou de nous mêler dans les affaires du navire qui ne nous regardent pas. Nous voulons une règle simple et facile à appliquer, qui nous permette de donner suite aux demandes d'un navire tout en nous épargnant des réclamations et des contestations.

Regardons de près les deux systèmes et voyons de quelle manière ils satisfont à ces conditions.

Si l'on acceptait la première règle qui dit qu'on ne peut accorder au navire belligérant plus de charbon qu'il ne lui est nécessaire pour gagner le port le plus proche de son pays, une série de questions se présentent qui doivent être tranchées par le neutre et qui le mettent dans un grand embarras.

On sera peut-être en mesure de préciser quel est le port le plus proche et de calculer la distance, mais alors vient la question du rayon d'action et de la vitesse avec laquelle le navire doit effectuer son voyage. On peut admettre que ce soit la vitesse la plus économique. Mais cette vitesse peut varier d'après la qualité du charbon, d'après l'état des chaudières et de la machine, d'après celui de la coque, d'après l'instruction et l'expérience du personnel, etc. Et encore cette vitesse n'est-elle possible qu'en des circonstances favorables. Si le navire trouve du gros temps, s'il est obligé de forcer sa route contre le vent et la mer, tous les calculs deviennent inexacts et le navire court tous les dangers. Comment serait-il donc possible de fixer la quantité nécessaire pour le voyage? On pourrait dire que le commandant donnera tous les renseignments qui peuvent servir de base pour évaluer la quantité de charbon. Mais lui-même ne pourra pas prévoir le temps qu'il trouvera en mer; et on ne peut exiger de lui qu'il mette son navire en péril, en demandant trop peu de charbon; le commandant demandera donc la plus grande quantité possible et il restera toujours à craindre qu'un conflit ne s'élève entre le commandant et les autorités de l'Etat neutre, conflit de nature à causer plus tard des réclamations.

D'ailleurs, dans le cas où le port le plus proche serait tellement éloigné qu'il serait impossible au navire d'atteindre ce port, sans renouveler sa provision de charbon, il serait toujours nécessaire de donner au navire la plus grande quantité du charbon possible. Enfin on doit considérer

le cas où le port le plus proche est bloqué, ce qui modifierait toutes les conditions du calcul.

Bref, la quantité du charbon accordée changerait d'après les differents cas, et le neutre serait toujours obligé de prendre sur lui la responsabilité de fixer le nombre de tonnes de combustible que le navire devrait recevoir.

La question serait tout autre et beaucoup plus facile à régler si une règle générale disposait que le neutre peut donner autant charbon qu'il est nécessaire pour remplir les soutes proprement dites. Dans ce cas, le neutre recevrait du commandant un certain chiffre indiquant la quantité du charbon qui lui manque. L'Etat neutre serait en état de se rendre compte que cette quantité n'a pas été dépassée, car il n'est pas difficile de constater que les soutes sont pleines; la livraison de charbon cesserait alors et toute contestation, toute réclamation serait ainsi évitée.

Les Délégués techniques de 15 pays ont discuté cette question pendant plus de deux heures et à la fin une majorité de 10 voix contre 5 s'est déclarée en faveur de la disposition disant que l'Etat neutre pourra donner le charbon nécessaire pour remplir les soutes, parce que c'était la mesure la plus convenable et le meilleur moyen pratique d'éviter des malentendus.

Contre l'adoption de cette proposition on a allégué que le belligérant y trouverait un moyen facile de se procurer du charbon pour tenir la haute mer et pour entreprendre des actes hostiles pour un assez long temps, notamment dans le cas où il se trouverait à proximité d'un certain nombre d'Etats neutres.

Mais cette situation n'existe qu'en quelques parties du monde. Dans de vastes parties du globe, les ports où l'on peut recevoir du charbon sont assez éloignés l'un de l'autre. D'ailleurs le même état des choses se présenterait également dans le cas où la règle du propre port le plus prochain serait acceptée. Tous les Etats neutres dont les ports sont très éloignés du port le plus prochain du belligérant seraient obligés de donner non seulement le plein de soutes mais la plus grande quantité du charbon pour mettre le navire belligérant en état d'aller aussi loin que possible.

Une dernière considération est que le neutre est maître dans sa maison et qu'il peut défendre l'accès de ses ports à tout navire belligérant qui essaye d'en user comme base d'opérations. Au reste, le neutre n'a pas pour devoir de préjuger les intentions d'un navire belligérant qui visite une fois son port et qui appartient à une nation avec laquelle il vit en paix; il suffit qu'il traite les deux belligérants de la même manière.

Messieurs, telles sont les raisons qui nous ont déterminés à vous proposer d'accepter l'alinéa 2 de l'article 10 dans la forme suivante: "Ces navires ne peuvent de même prendre du combustible que pour compléter leur plein de soutes proprement dites."

General survey of discussions at The Hague.—The report of the United States delegation to the Second Hague Con-

ference, speaking of the question of limitation of the supply of coal in neutral ports, says:

The proposition advanced by England represented the strict views of neutral rights and duties which are held by States maintaining powerful naval establishments, supplemented by a widely distributed system of coaling stations and ports of call, in which their merchant vessels could find convenient refuge at the outbreak of war and which enable them to carry on operations at sea quite independently of a resort to neutral ports for the procurement of coal or other supplies or for purposes of repair. As the policy of the United States Government has generally been one of strict neutrality, the delegation found itself in sympathy with this policy in many, if not most, of its essential details. France for many years past has taken a somewhat different view of its neutral obligations, and has practiced a liberal, rather than a strict, neutrality. The views of France in that regard have received some support from the Russian delegation and were favored to some extent by Germany and Austria.

It was constantly borne in mind by the delegation, in all deliberations in committee, that the United States is, and always has been, a permanently neutral power, and has always endeavored to secure the greatest enlargement of neutral privileges and immunities. Not only are its interests permanently neutral, but it is so fortunately situated, in respect to its military and naval establishments, as to be able to enforce respect for such neutral rights and obligations as flow from its essential rights of sovereignty and independence.

With a view, therefore, to secure to neutral States the greatest possible exemption from the burdens and hardships of war, the delegation of the United States gave constant support to the view that stipulations having for that purpose the definition of the rights and duties of neutrals should, as a rule, take the form of restrictions and prohibitions upon the belligerents, and should not, save in case of necessity, charge neutrals with the performance of specific duties. This rule was only departed from by the delegation in cases where weak neutral powers demanded, and need, the support of treaty stipulations in furtherance of their neutral duties. It was also borne in mind that a State resorting to certain acts with a view to prevent violations of its neutrality derives power to act from the fact of its sovereignty, rather than from the stipulations of an international convention. (Senate Doc., 60th Cong., 1st sess., No. 444, p. 50.)

Résumé.—By Article I of the Convention concerning the Rights and Duties of Neutral Powers in Naval War:

Belligerents are bound to respect the sovereign rights of neutral powers and to abstain, in neutral territory or neutral waters, from any act which would, if knowingly permitted by any power, constitute a violation of neutrality.

Unrestrained or repeated coaling in neutral waters, if knowingly permitted by a neutral, would unquestionably

constitute a violation of neutrality and is therefore an act from which the belligerent is bound to refrain. Further, Article XVIII of the same convention prohibits the use of territorial waters for "replenishing or increasing" supplies of "war material" or "armament." Coal destined for the belligerent forces has in recent years been regarded as war material. In Situation IV there has been within three months an actual increasing of the supply of war material within neutral jurisdiction. Under the spirit of Article XVIII, the taking on of coal would not be allowed to the war vessel of State X.

As is evident from the neutrality proclamations of recent years, it is the purpose of neutrals to strictly limit the use of neutral territorial waters by belligerents to such purposes as the neutrals may specifically enumerate. In most proclamations prohibitions have been extended to ports, roadsteads, and territorial waters.

The provisions of the Convention concerning the Rights and Duties of Neutral Powers were agreed upon to harmonize divergent views. The divergency of view in regard to coaling was in regard to the amount rather than in regard to the frequency and place of coaling. This convention also provides that "it is expedient to take into consideration the general principles of the law of nations."

From the general principles set forth in the convention, from the neutrality proclamations, from practice in recent wars, and from the general principles of the laws of nations it is evident that the contention of State Z is correct. Very wide freedom has been allowed to belligerents in matter of coaling. The use of any place within neutral jurisdiction, except under the terms of the convention regulating the supply of coal to belligerents, would be using such place as a base, which is prohibited. Certain propositions made by neutral States have not only prescribed the refusal of such supplies, but also the interning of a belligerent vessel which disregards such neutral regulations.

CONCLUSION.

The contention of State Z is correct.

Situation V.

BLOCKADING BY MINES.

There is war between States X and Y. Other States are neutral. War vessels of State X are blockading a port of State Y. Two of the war vessels of State X are called away, leaving only two to aid in maintaining an effective blockade. The two remaining vessels lay a line of automatic contact mines of which they give notice to neutrals.

The neutrals protest on the ground that this is not a legitimate method of blockade and maintain that the mines should be removed.

What action should be taken?

SOLUTION.

Under the strict law such use of mines is not prohibited. It would seem, however, that mines should not be used for the maintenance of a commercial blockade and that neutrals would have good cause to protest against such use, which protest a belligerent should heed.

NOTES ON SITUATION V.

Effective blockade.—According to the Declaration of Paris, 1856, to which most States acceded "blockades, in order to be binding, must be effective; that is to say, maintained by a force sufficient to prevent access to the coast of the enemy." This principle has been so generally recognized as to be little questioned. The words "sufficient force" have received varied interpretations. It is not certain just what constitutes a "sufficient force," nor of what character such force must be. Sir Alexander Cockburn, in the case of Geipel *v.* Smith, said:

> In the eye of the law a blockade is effective if the enemies' ships are in such numbers and position as to render the running of the blockade a matter of danger, although some vessels may succeed in getting through. (Law Reports, 7 Queen's Bench, 404.)

The definition of blockade, according to the armed neutralities of 1780 and 1800, spoke of its maintenance by vessels. The Declaration of Paris of 1856, however, mentions "a sufficient force" not defining the nature of the force.

Treaty provisions.—Article 13 of the treaty between the United States and Italy of 1871 contains the statement that those States—

> Being desirous of removing every uncertainty which may hitherto have arisen respecting that which upon principles of fairness and justice ought to constitute a legal blockade, they hereby expressly declare that such places only shall be considered blockaded as shall be actually invested by naval forces capable of preventing the entry of neutrals, and so stationed as to create an evident danger on their part to attempt it.

There may in some cases be a doubt as to what might properly constitute "naval forces capable of preventing entry of neutrals." Some maintain that there may be question of the propriety of the use of mines for such purpose; others regard mines as legitimate as any form of naval warfare, whether for blockade or other service.

Opinion of court.—In the case of the *Circassian* in 1864, Mr. Justice Chase said, in regard to blockade:

> It may be made effectual by batteries ashore as well as by ships afloat. In the case of an inland port, the most effective blockade would be maintained by batteries commanding the river or inlet by which it may be approached, supported by a naval force sufficient to warn off innocent and capture offending vessels, attempting to enter. (2 Wallace, U. S. Supreme Court Reports, p. 135.)

Obstructions in aid of blockade, stone.—Speaking in 1862 of the stone placed in Charleston Harbor to aid in maintaining the blockade and of the opposition raised by some European States to this method, Secretary Seward in a letter to Minister Dayton, at Paris, said:

> Hitherto such obstructions have been regarded as an ordinary military appliance of war. No American ever conceived that the human hand could place obstructions in a river which the same hand could not remove. * * * We were, therefore, surprised, and even incredulous, when we saw that the placing of obstructions in the channels leading to Charleston was, in Europe, regarded as an act of peculiar and ruthless severity. (U. S. Diplomatic Correspondence, 1862, p. 316.)

In a letter two days earlier to Mr. Adams, Mr. Seward said:

I am not prepared to recognize the right of other nations to object to the measure of placing artificial obstructions in the channels of rivers leading to ports which have been seized by the insurgents in their attempt to overthrow this Government. I am, nevertheless, desirous that the exaggerations on that subject which have been indulged abroad may be corrected. I have, therefore, applied to the Navy Department for information, and I have now to inform you that between the channels leading to the harbor of Charleston which have been so obstructed there still remain two other channels, neither of which has been so obstructed, and in which there has been no design to place any artificial obstructions. These are the Swash channel and a part of the so-called Maffit's channel. These two latter channels are guarded, and passage through them prevented only by the blockading naval forces. (Ibid., p. 36.)

In 1884 certain Chinese harbors were in part blocked by stone. In a communication to the Secretary of State at this time the United States minister to China says:

On the 10th of January I was informed by the British minister, Sir Harry Parkes, and the German chargé d'affaires, Count Tattenbach, that dispatches had been received from their consuls at Canton saying that the Chinese authorities were preparing to obstruct the water approaches to Canton, and that the effect of these obstructions would be to imperil, if not to prevent, navigation. The German consul reported that Whampoa would be "totally blocked."

I telegraphed Mr. Consul Seymour for information, and his reply I inclose. Mr. Seymour, as you will observe, said that there would be "serious obstructions without equivalent benefits." * * * The United States during the rebellion saw fit to obstruct the channels in Charleston Harbor by sinking ships laden with stone to secure an effective blockade. Germany during her latest war with France protected her Baltic ports with torpedoes. I should have felt some embarrassment in seeking to persuade the yamen that what Germany and the United States regarded as honorable warfare could not be permitted to them. (U. S. Foreign Relations, 1884, p. 66.)

A later dispatch, No. 267, from Secretary Frelinghuysen says:

Even, however, under this favorable modification (the opening of channels 100 to 150 feet in width) the obstruction to the channel at Canton and Whampoa can only be tolerated as a temporary measure, to be removed as soon as the special occasion therefor shall have passed, and under no circumstances to be admitted as a precedent for setting

obstacles to open navigation at the treaty ports in time of peace, under pretext of being intended for ultimate strategic defense in the contingency of future war. (Ibid., p. 96.)

A dispatch of Secretary Bayard to Mr. Denby, United States minister to China, July 28, 1886, says:

Your No. 141 is before me, and brings to the Department, with much clearness, a question of great interest. It is unquestionable that a belligerent may, during war, place obstructions in the channel of a belligerent port, for the purpose of excluding vessels of the other belligerent which seek the port either as hostile cruisers or as blockade runners. This was done by the Dutch when attacked by Spain in the time of Philip II; by England when attacked by the Dutch in the time of Charles II; by the United States when attacked by Great Britain in the late civil war; by Russia at the siege of Sebastopol; and by Germany during the Franco-German war of 1870. But while such is the law, it is equally settled by the law of nations that when war ceases such obstructions, when impeding navigation in channels in which great ships are accustomed to pass, must be removed by the territorial authorities. Such is the rule apart from treaty; and it was implicitly admitted by Mr. Seward, when, in replying to the remonstrances by the British Government on the placing by the blockading authorities of obstructions in the harbor of Charleston, he stated that these obstructions were placed there merely temporarily. Were there any doubt about this question, which I maintain there is not, it would be settled by the provisions of our treaties with China, which virtually make Canton a free port, to which our merchant ships are entitled to have free access in time of peace. You are therefore instructed to make use of the best efforts in your power to induce the Chinese Government to remove the obstructions in the Canton River, which, as you state, operate to close the port of Canton to the merchant vessels of the United States.

In sending to you this instruction, I affirm the instruction of Mr. Frelinghuysen to Mr. Young, No. 267, dated April 18, 1884, printed in the Foreign Relations of that year. (U. S. Foreign Relations 1886, p. 95.)

Professor Moore summarizes the Chinese action in the Chino-Japanese war of 1894 as follows:

During the war with Japan in 1894, the Tsung-li yamen announced the closure of Foochow for purposes of defense. One entrance was left open, and a place was designated as an anchorage for foreign and Chinese steamers outside the mouth of the river, where they were required to discharge and load cargo, which was conveyed to and from Foochow by lighters registered at the customs. These lighters followed an indicated route and plied only in the daytime. In reporting these measures, the American chargé at Peking observed that,

burdensome as they doubtless would prove to be, no objection could be made to them in view of the demoralization of the Chinese naval forces, Foochow being an important naval depot which must be guarded at all hazards. The Government of the United States reaffirmed the position taken by Mr. Frelinghuysen in his telegram to Mr. Young of January 22, 1884, and by Mr. Bayard, in his instructions to Mr. Denby of July 28, 1886. (7 Int. Law Digest, p. 858; U. S. Foreign Relations 1894, Appendix I, p. 71.)

Obstructions in aid of blockade, sunken vessels.—Professor Lawrence, writing of the Russo-Japanese war of 1904, said:

In the present war no one, even in Russia, has hinted that the Japanese went beyond their rights in attempting to block the channel leading to the inner harbor of Port Arthur by sunken merchantmen, or in mining the sea pathway which they had observed the Russian ironclads to take when going in and coming out. (War and Neutrality in the Far East, 2d ed., p. 104.)

Use of mines during blockade.—Sir Thomas Barclay says of the general use of mines at Port Arthur:

During the blockade of Port Arthur, the Russians laid mines in all parts of the sea adjacent to that port. The Japanese allege that from the beginning to the end of the siege they removed 395 Russian mines. The removal continued after the siege, so that the total number removed they estimate to have much exceeded this number. In an excellent article, dated November 24, 1905, published in the Times of December 27, the able Tokyo correspondent of that paper remarked that "this chapter of history would not have retained a prominent place in general recollection, had it not been vividly illustrated from time to time by shocking disasters to merchant steamers, which, while navigating routes comparatively remote from the scene of the combat, struck errant mines, and were sent to the bottom." The Russians were not alone the offenders. The Japanese made almost equally extensive use of such mines, as has been learned from a document compiled at the Japanese Hydrographers' Office in answer to an application from the Russian headquarter staff for information as to the locality of any mines placed by the Japanese in the neighborhood of Vladivostok. The Japanese Admiralty replied, says the same correspondent, by a detailed statement showing that two mine-laying operations had been carried out by the Japanese in Vladivostok waters—the one in April, 1904, to render impassable the entrance and exit through the straits which must be passed to reach the port; the other, about a year later, when the Baltic fleet had arrived in Far Eastern waters. In this case 715 mines were laid "right across Peter the Great Bay, from Askold Island to Korsakoff Island, a distance of forty miles." These figures show that there must have been a mine at

about every 100 yards. "In spite of this great plexus of destructive engines," communications with Vladivostok continued undisturbed during the period of eight months—from April 15, 1905, when the Askold-Korsakoff line was laid, to November 9 of the same year—when the Japanese Admiralty replied to the Russian inquiry. (Problems of International Practice and Diplomacy, p. 59.)

Discussion of the use of mines at the Hague Conference, 1907.—In the letter of instructions as to the Second Hague Conference, Sir Edward Grey says to Sir Edward Fry in regard to mines:

15. His Majesty's Government would view with satisfaction the abandonment of the employment of automatic mines in naval warfare altogether. Failing the acceptance of such a total prohibition, they earnestly hope that the employment of these engines of war will only be sanctioned under the strictest limitations. They would advocate an arrangement by which the use of automatic mines should be limited to territorial waters, and, if possible, to such portions of territorial waters as adjoin naval bases or fortified ports. All mines thus employed should be effectively anchored, and so constructed that, in the event of their breaking adrift, they would either automatically become harmless or sink, and that in any case their active life should not exceed a limited period of say six months. (Correspondence Respecting the Second Peace Conference, Parliamentary Papers Misc. No. 1 (1908) [Cd. 3857].)

Various questions were raised as to the meaning of any prohibition of the use of mines for the maintenance of a blockade. Great Britain proposed an article to the following effect:

L'emploi de mines sous-marines automatiques de contact pour établir ou maintenir un blocus de commerce est interdit.

The British proposition became the point of departure for discussion on this topic. It was asked whether such a regulation would prohibit the use of mines by the blockading fleet for its own defense, etc. Captain Ottley replied that the intent was to prevent the closing of a great commercial port by the exclusive use of a line of mines. The president of the commission, M. Hagerup, said that two main questions seemed to be raised:

1°. Les bâtiments établissant ou maintenant un blocus pourront-ils employer des mines pour leur défense personnelle?

2°. Peut-on établir un blocus de commerce uniquement à l'aide de mines? Tout le monde paraît être d'accord pour répondre négativement á la seconde question.

The discussion in regard to the use of automatic contact mines introduces the conflict of interests between neutral and belligerent. The belligerent of large resources, ample military forces, varied and extended commercial interests would naturally desire that these should have the greatest freedom in use. The belligerent of small resources, both commercial and military, would naturally desire to use the most economical means of defense and to use these means with the least possible restraint. Some of the States having less military resources regard mines as essential to their protection against the more powerful and as a possible means by which they can close the ports of the great powers. Neutrals may also be involved in many ways. This is to some extent shown in the remarks of the Italian delegate, Captain Castiglia, at the opening of the discussion on the subject of submarine mines at the Second Hague Conference, June 27, 1907:

L'emploi des mines est un moyen de défense auquel ne pourront jamais renoncer ni les grandes puissances qui ont une longue étendue de côtes à protéger, ni, à plus forte raison, celles qui ne possédant pas une grande marine de guerre trouveront dans l'emploi de ces armes un puissant auxiliaire à leur défense maritime.

C'est la défense la moins coûteuse et pour cela elle est à la portée de tous. Mais si l'on pense aux désastreuses conséquences que ces instruments de guerre peuvent causer au commerce pacifique des neutres et à l'exercice de la pêche, pendant et même après la guerre, c'est bien naturel que l'on cherche à mettre quelque frein dans l'usage de ces terribles instruments pour en éliminer les conséquences fatales.

Mais les types des mines adoptés sont si différents, et les cas particuliers de leur emploi sont si nombreux, que même avec toute la meilleure bonne volonté, il serait impossible de dicter des règles générales pouvant être toujours suivies fidèlement.

La défense sous-marine idéale dans le sens de ne produire aucun dommage aux navires des neutres est celle qu'on obtient avec des obstructions composées de mines fixes, que des observateurs font éclater moyennant l'électricité. Mais l'emploi de ces mines est non seulement limité près des côtes, mais aussi il n'est pas toujours possible.

Sir Ernest Satow, speaking before the Third Commission at the Second Hague Conference, on September 17,

1907, said of the amended form of the British proposition to absolutely prohibit blockade by mines:

L'article 4, alinea 3, déclare qu'il "est interdit de placer des mines automatiques de contact devant les côtes et les ports de l'adversaire dans le seul but d'intercepter la navigation de commerce." C'est là une clause qui laisse au belligérant une échappatoire bien dangereuse. On avait proposé dans le Comité de ne permettre la pose de mines devant un port de commerce qu'à la condition qu'il y eût dans ce port au moins une grande unité de combat, mais la proposition fut vivement combattue et dut, par conséquent, être retirée. Cependant il serait, à notre avis, tout à fait contraire à l'esprit et à la lettre de la Déclaration de Paris de permettre qu'un blocus fût maintenue totalement ou en partie à l'aide de mines. Je me permets de vous rappeler le texte même du passage qui a trait à cette question—"les blocus, pour être obligatoires, doivent être effectifs," c'est-à-dire maintenu par une force suffisante pour interdire réellement l'accès du littoral de l'ennemi. Il est clair qu'il s'agit ici d'une force suffisante composée de navires de guerre, et que l'on ne peut comprendre dans cette catégorie des mines sous-marines, qui ne sont sujettes à aucun contrôle, et qui ne contiennent en elles aucune preuve évidente de l'intention de fermer l'accès du port bloqué. Il serait par conséquent bon de tirer ce point au clair, afin de ne laisser subsister aucune équivoque, et c'est pourquoi nous avons l'honneur de proposer le texte suivant à la place de celui que nous avons sous les yeux.

It was recognized in the discussions of Article II of the convention relative to the laying of automatic contact submarine mines that the introduction of the last clause would introduce possible complications. The article is as follows:

It is forbidden to lay automatic contact mines off the coast and ports of the enemy with the sole object of intercepting commercial shipping.

According to the last clause the prohibition extends to the mines laid with the "sole object of intercepting commercial shipping." This introduces the question of intent, which is always difficult to prove. The intent is, however, restricted by the introduction of the adjective "sole" (*le seul but*).

The report of the subcommission which had the matter of automatic contact mines under consideration was as relates to the question of blockade by mines as follows:

ART. 4. *Devant les côtes et les ports de leurs adversaires, les belligérants peuvent placer des mines automatiques de contact amarrées dans les limites indiquées aux deux articles précédents*

Toutefois, ils ne peuvent dépasser la limite de trois milles marins devant les ports, qui ne sont pas des ports de guerre, que s'il s'y trouve des établissements de constructions navales ou de radoub, appartenant à l'Etat.

Il est interdit de placer des mines automatiques de contact devant les côtes et les ports de l'adversaire dans le seul but d'intercepter la navigation de commerce.

Après avoir fixé des limites à la défense des côtes, le règlement s'occupe dans l'article 4 de l'attaque. Les deux premiers alinéas de cet article se rapportent aux limites que, dans l'espace, les belligérants doivent garder en posant des mines amarrées devant les côtes ennemies; le troisième alinéa y apporte une nouvelle restriction, c'est que même là, où devant les côtes ennemies on peut placer dans la zône des deux premiers alinéas, des mines amarrées, on ne peut pas en placer "dans le seul but d'intercepter le commerce."

1) Occupons-nous d'abord de cette dernière disposition. Elle doit son existence à une proposition britannique, contenue dans le projet primitif de la Délégation de Grande-Bretagne et portant que "il est interdit d'employer des mines sous-marines automatiques de contact pour établir ou maintenir un blocus de commerce."

Dans la Sous-Commission, M. le Contre-Amiral Arago fit remarquer, qu'avant tout il serait nécessaire de déterminer la portée précise de cette disposition. "Interdit-elle par exemple aux vaisseaux belligérants, qui établissent un blocus, tout usage de mines sous-marines, même pour leur défense propre, ou, au contraire, a-t-elle seulement pour but d'interdire l'établissement d'un blocus a l'aide d'un cordon de mines sous-marines placé devant une côte ennemie?", à quoi M. le Capitaine de Vaisseau Ottley répondit "que la pensée à laquelle cette disposition s'est inspirée, était l'interdiction à un belligérant de fermer un port de commerce de son ennemi par l'emploi de mines automatiques de contact."

Devant cette position de la question on dut se demander, si la discussion de la proposition britannique n'outrepassait pas les limites de la compétence de la 3ème Commission. On fit observer que la question de savoir quant et comment un blocus peut être établi, est du ressort de la 4ème Commission, qui aurait à s'occuper de la matière du blocus de guerre; c'est notammement à la 4ème Commission qu'il devrait appartenir de se prononcer sur toute question concernant l'effectivité du blocus. Après un échange de vues au sein de la Sous-Commission, le Président put constater l'unanimité de la Sous-Commission à ne s'occuper que de l'une des faces que présentait la proposition britannique; il s'agirait seulement de déterminer, en examinant les mines, comme moyen de nuire à l'ennemi, si l'on peut s'en servir dans le but de barrer la navigation commerciale de l'adversaire—question à laquelle, paraît-il, on devrait répondre négativement. Cela établi, on pourrait confier au Comité le soin de bien faire ressortir cette pensée commune, tout en laissant hors de discussion l'application, au sujet

de l'emploi des mines, des principes de la déclaration de Paris concernant l'effectivité du blocus.

C'est en effet dans cet ordre d'idées que le Comité eut à s'occuper de la proposition anglaise. On commença par être d'accord sur ce point, que, pour se soustraire à tout équivoque, il fallait abandonner le terme de blocus, employé dans cette proposition.

This Article 4 subsequently was amended and became Article 2.

ART. 2. Il est interdit de placer des mines automatiques de contact devant les côtes et les ports de l'adversaire dans le seul but d'intercepter la navigation de commerce.

Opinions of text writers.—There have been claims that the blockade of ports must be wholly by war vessels. Fauchille says of this subject:

En général, les traités qui ont précédé la déclaration de Paris (voir notammment traités de 1780 et 1800) ne précisaient point la nature des vaisseaux qu'on pouvait employer dans un blocus. La déclaration de 1856, elle-même, est restée muette sur ce point; seulement l'abrogation de la course qu'elle a prononcée ne peut permettre aucun doute à cet égard. Cette dernière observation s'applique également aux conventions postérieures à 1856. Les lois intérieures des Etats sont au contraire plus explicites sur la question: la plupart reconnaissent expressément le principe qu'un navire de guerre seul peut constituer un blocus: nous citerons notammment l'ordonnance des Pays-Bas du 26 janvier 1781 (art. 6), les ordonnances suédoises du 21 janvier 1804 (§ XI) et du 8 avril 1854 (§ 4), les règlements danois du 1er mai 1848 (§ 1) et du 16 février 1864 (§ 1), le règlement de la Prusse de 20 juin 1864 (§ 1), l'ordonnance autrichienne du 3 mars 1864 (§ 1), et celle du 21 mars 1864 (§ 5), le règlement russe de 1869 (§ 7) et les instructions françaises du 25 juillet 1870 (art. 7). L'Institut de droit international, qui, dans sa dernière seánce, a essayé de codifier les lois du blocus, a aussi déclaré formellement que l'accès du port bloqué devait être interdit au moyen de vaisseaux de guerre. (Du Blocus Maritime, p. 132.)

Fauchille also says of the opinion expressed at the meeting of the Institute of International Law in 1877 (Annuaire 1878, p. 110) in regard to the difference between blockade by ships or by coast batteries or torpedoes which render access to the port impossible:

Nous croyons donc que l'emploi de torpilles, nullement défendu par la déclaration internationale du 11 décembre 1868, est légitime pour former un blocus lorsque leur disposition est telle qu'elle permet un

investissement effectif. Et il en sera ainsi, si, outre l'escadre volante, il se trouve devant la côte ennemie des vaisseaux dont les torpilles sont entre elles à une distance telle que leur puissance explosible puisse embrasser tout l'espace de mer qui les sépare du vaisseau qui les porte ou qui s'étend entre chacune d'elles. (Du Blocus Maritime, p. 134.)

Fauchille says of the propriety of blockade by sinking vessels loaded with stones before the blockaded port:

Pour résoudre cette question il faut, ce nous semble, envisager plusieurs hypothèses: Supposons d'abord qu'outre la ligne de pierres il se trouve devant le port une escadre de vaisseaux en nombre suffisant pour avertir tous les navires étrangers de l'existence du blocus. En ce cas, le blocus par pierres sera-t-il légitime? Nous devons faire une distinction. De deux choses l'une: Ou bien la ligne de pierres est une ligne ininterrompue et alors ce mode de blocus n'est pas légitime. En effet, quoique bloqué, un port ne se trouve point pour cela fermé a tous les vaisseaux étrangers: selon l'usage international, certains bâtiments peuvent encore sortir du port durant les premières semaines du blocus, et même pendant la durée de l'investissement la place reste toujours accessible à certains navires particuliers; or, avec le système que nous supposons, comment ces vaisseaux pourraient-ils pénétrer dans le lieu bloqué ou s'en éloigner? Ce serait chose impossible, car, en vérité, on ne peut obliger la flotte bloquante à ouvrir un passage dans la ligne de pierres à chaque fois qu'un de ces bâtiments voudrait passer! Ou bien, au contraire, la ligne de barrage n'est pas ininterrompue et renferme certains passages; le blocus par pierres est alors parfaitement légitime, puisque ces passages, sans empêcher l'effectivité du blocus, permettent l'entrée ou la sortie de la place aux bâtiments qui ont ce droit. Ces passages, disons-nous, ne rendent pas le blocus non effectif, attendu qu'ils sont connus des seuls vaisseaux bloquants, et que ces vaisseaux bloquants sont supposés être en nombre suffisant pour avertir les neutres, les visiter et poursuivre ceux qui résisteraient à leurs ordres.

Cette première hypothèse est purement théorique, jamais elle ne se réalisera dans la pratique, car elle n'offre au belligérant bloquant aucun avantage spécial. Un blocus par pierres ne sera appliqué par un État qu'autant qu'il présentera pour celui-ci une certaine utilité, et il n'offrira quelque utilité que s'il nécessite pour son existence l'emploi d'un nombre de bâtiments moins considérable que le blocus par vaisseaux stationnés. Pour examiner si un semblable moyen est vraiment légitime, il faut donc supposer qu'il n'y a devant la place ainsi cerné que quelques rares croiseurs insuffisants pour prévenir de l'existence du blocus tous les navires qui se présenteraient. Or, dans ce cas, une objection nouvelle s'élève aussitôt. De nombreux navires pourront échapper à la surveillance des croiseurs; ignorant l'existence du blocus, ils s'approcheront sans crainte du port bloqué, et ils iront se briser sur la ligne de pierres qui ferme l'entrée de la place: des dommages considérables seront ainsi infligés à des innocents. Un pareil

résultat ne peut, ce nous semble, permettre aucun doute sur la légitimité du système qui l'entraîne. Ce système n'est donc, comme l'a dit le président des Etats confédérés, Jefferson Davis (Message du 12 janvier 1863), qu'une "odieuse barbarie." Certes, aucune définition ne pouvait mieux convenir au blocus par pierres qui fut établi en 1861 par les Américains, puisque ceux-ci avaient déclaré n'y recourir que parce qu'ils ne possédaient pas une flotte suffisante pour constituer, avec des navires, un blocus effectif. (Du Blocus Maritime, p. 144.)

Pradier-Fodéré agrees with Fauchille that the maintenance of a blockade by coast batteries is allowable, citing a treaty between France and Denmark of 1742, the German code, and other sources. He also says:

La seule règle en cette matière est que les blocus, pour être obligatoires, doivent être effectifs, c'est-à-dire maintenus par une force suffisante pour interdire réellement l'accès du littoral de l'ennemi: or, les matelots et les soldats qui desservent les batteries constituent bien une force, et si cette force est suffisante pour interdire l'accès du littoral, l'entrée ou la sortie des ports, il est difficile de ne pas dire qu'il y a là un blocus effectif, quoique, à la vérité, les blocus maritimes soient le plus généralement constitués et maintenus par des forces navales. Les blocus par batteries placées sur les côtes sont une exception à la manière ordinaire de bloquer, mais ne sont pas une exception à une règle qui n'existe pas, et, dès lors, il n'y a pas lieu d'appliquer les principes de l'interprétation.

Les mêmes observations doivent être faites, et la même solution doit être donnée, au sujet de l'interdiction de l'accès d'un littoral, ou d'un port, au moyen de torpilles dormantes répandues devant le lieu qu'on veut bloquer. Ces torpilles, qui font explosion au contact des navires, s'opposent à l'entrée dans les ports, ou à la sortie de ces ports, par tout bâtiment de guerre ou de commerce, neutre ou ennemi, et réalisent un blocus très absolu, très effectif. Ce n'est pas le blocus ordinaire et régulier, ce n'est point le blocus effectif, tel que le définissaient les Neutralités armées de 1780 et 1800, ni même la déclaration du congrès de Paris de 1856, mais c'est un moyen de fermeture qui expose à un danger évident tout navire qui tenterait de la forcer, et qui ne pouvait être visé avant l'invention et la vulgarisation des torpilles. Ces engins de guerre, dont l'usage est condamné par l'humanité, mais licite d'après le droit international, pouvant être disposés de manière à constituer un investissement complet, il n'y a pas de raison déterminante bien sérieuse pour ne pas admettre les blocus au moyen de torpilles; d'autant plus que ce genre de blocus n'exclut pas, mais même exige, la présence de navires de guerre, afin de concilier ce moyen de fermeture avec la nécessité généralement reconnue aujourd'hui d'une notification spéciale faite en dehors de la notification diplomatique, pour surveiller les torpilles posées et pour les défendre contre les entreprises de l'ennemi bloqué. Ce besoin de maintenir des navires de guerre

dans les parages où les torpilles sont placées, enlève nécessairement beaucoup d'avantages à cette manière de bloquer, et l'on peut dire que si les blocus par torpilles sont possibles et licites, ce n'est que comme complément des blocus par navires. (8 Droit Int. Public, no. 3116.)

Lawrence, speaking of the maintenance of blockade, says:

But it is not necessary that channels should in every case be closed by ships, though a maritime blockade without vessels to support it would be a contradiction in terms. As an operation supplementary to those of the fleet, a waterway may be closed by stones, sunken hulls, torpedoes, or other obstructions. When, in 1861, Earl Russell remonstrated on behalf of the British Government against the attempt made by the Federal forces to block up some of the approaches to Charleston and Savannah by sinking vessels in the channels, Mr. Seward replied that the obstructions were only temporary and would be removed at the termination of the war. In this particular case there was no intention to inflict permanent injury upon "the commerce of nations and the free intercourse of the Southern States of America with the civilized world." But even if such a design had been entertained, it is difficult to see on what grounds of law neutrals could protest against it. A belligerent, who may knock the fortified ports of his enemy to pieces by bombardment if they resist his attack, may surely destroy the approaches to them from the sea in order to further the objects of his war. Neutrals are jealous, and properly jealous, of methods which inflict severe injury on their trade; but they can hardly claim to make its future prosperity the measure of the legality of hostile acts. (Principles of Int. Law, p. 583.)

Opinion of Professor Lawrence on the Hague Convention.—Speaking of the convention in regard to the laying of submarine automatic contact mines, Professor Lawrence says:

Here we have a code which possesses the great advantage of being short, terse, and free from legal technicalities. But unfortunately the first two articles are greatly diminished in force by a subsequent provision, and the third is useless. He must indeed be a curiously simple-minded naval commander who cannot think of some other reason for laying a cordon of mines off an enemy's port than that of intercepting commercial shipping. Even if there be no gunboat, however aged and rotten, reposing on the mud of some interior creek, or no naval store, however ill-furnished and depleted, hidden in some remote corner, there always remains the resource of alleging that the enemy's warships must be prevented from gaining the shelter of the harbour. Germany saw this and made a reservation against the regulation on the ground that "the belligerent has only to assert a different

object in order to make it illusory." One would have thought her next step would be to suggest that it be turned into a reality. But she objected to a British proposal to prohibit outright the use of contact mines for closing against commerce ports that were not being attacked from the sea, and her opposition was backed by France and Russia. The result is that, so far as the conference is concerned, no restraint has been put on the activity of belligerents in this direction, though there is good reason for the assertion that it would be absolutely contrary to existing International Law. (International Problems and Hague Conferences, p. 122.)

Just as a consideration of the law of contraband in conference must lead to discussion on the carriage of food stuffs in neutral vessels to unblockaded belligerent ports, so it will be impossible to deal with the law of blockade without encountering the question of how a lawful blockade is constituted. For generations past there has been one common element in all the answers that have been given. Without exception they have asserted or assumed that the closure of the blockaded port must be effected by ships. There have been controversies as to the number of ships to be employed, the necessity of a cross fire being brought to bear from them on any vessel attempting to enter, the manifest nature of the danger threatened by them, and the question whether they must be stationed on the spot or may be allowed to cruise within reach of it. But no State has ever claimed the right to institute a blockade without placing some of its men-of-war in close proximity to the place blockaded. Yet at the last Hague Conference such a claim was made, not indeed directly, but by implication. The rejection of the British proposal to limit the use of anchored contact mines to the attack and defence of fortified naval ports involved a belief in the right to use them for closing against commerce ports which were not being attacked from the sea. A prohibition against laying them "off the coasts and ports of the enemy with the sole object of intercepting commercial shipping" was indeed inserted in the convention on the subject, but we have already (see pp. 122, 123) exposed its futility. On this point the proceedings of the conference were reactionary in the highest degree. Whereas in the past the only way of closing an enemy's port against all neutral commerce was to blockade it, and the only way to blockade it was to station a ship or ships in such a position as to create evident danger to all vessels attempting ingress or egress, for the future it will suffice in the judgment of many powers, to lay a cordon of anchored contact mines across the approaches. Neutrals must indeed have lost all virility if they will quietly submit to this. It will not mean the comparative triviality of having their ships and goods confiscated by a belligerent Prize Court. They will be destroyed instead; and all on board will be sent to their doom. (Ibid., p. 189.)

Dangers from the use of mines for blockade.—It is evident that there are many dangers from the use of mines in blockade. If notification is not given to every vessel

approaching the line of blockade, vessels may run upon mines. It is usually admitted that a vessel may occasionally pass the line of blockade without being seen by the blockading forces, perhaps by reason of darkness or storm. Vessels may approach the line of blockade not knowing of its existence and innocently try to enter the port. Neutral public vessels may even when knowing of blockade approach the port. If in such a case, the blockading vessels are absent in pursuit of a vessel which has violated a blockade; are driven away by the stress of the weather; are driven away by the forces of the other belligerent, without removing the mines, there remains a hidden danger to the vessels innocently approaching the port. A neutral attempting to violate a blockade, if captured, is liable, after trial by a proper court, to condemnation of vessel and cargo. A neutral vessel approaching, perhaps innocently, a port blockaded by mines, is liable to be destroyed without trial, and not merely may the vessel and cargo be sunk but the lives of the officers and crew may be sacrificed.

A neutral coming within the area of actual hostilities is generally held liable to the consequences of his action. Therefore, a difference may be made in the means used in war in case the place blockaded is a military stronghold of the enemy. It may be necessary that such places be closed to ingress or egress by mines.

It seems, therefore, that there should be a distinction made in the use of mines for the purpose of closing ports, and that the use of mines for commercial blockades should not be allowed, or if allowed should be under very careful restrictions.

However, the Hague Convention of 1907 only prohibits the use of mines for "the sole object of intercepting commercial shipping." As has been said it is very easy to introduce an additional object for which a blockade is maintained while still leaving innocent shipping liable to gravest dangers.

From the nature of the blockade, as stated in this Situation V, there is a small blockading force from which it might be inferred that it was rather a commercial than

a military blockade. The representatives of neutral States protest against the use of mines before the port. Protest would naturally not be lodged against the use of mines in any reasonable manner before a military stronghold.

CONCLUSION.

Under the strict law such use of mines is not prohibited. It would seem, however, that mines should not be used for the maintenance of a commercial blockade and that neutrals would have good cause to protest against such use, which protest a belligerent should heed.

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APPENDIX.

FINAL ACT AND CONVENTIONS OF THE HAGUE CONFERENCE, 1907.

APPENDIX.

FINAL ACT AND CONVENTIONS OF THE HAGUE CONFERENCE, 1907.

FINAL ACT OF THE SECOND INTERNATIONAL PEACE CONFERENCE.

Signed by the United States Delegates.

The Second International Peace Conference, proposed in the first instance by the President of the United States of America, having been convoked, on the invitation of His Majesty the Emperor of All the Russias, by Her Majesty the Queen of the Netherlands, assembled on the 15th June, 1907, at The Hague, in the Hall of the Knights, for the purpose of giving a fresh development to the humanitarian principles which served as a basis for the work of the First Conference of 1899.

The following Powers took part in the Conference, and appointed the Delegates named below:

Germany:

His Excellency Baron Marschall de Bieberstein, Minister of State, Imperial Ambassador at Constantinople, First Delegate Plenipotentiary;

M. Kriege, Imperial Envoy on Extraordinary Mission at the present Conference. Privy Councillor of Legation and Legal Adviser to the Ministry for Foreign Affairs, Member of the Permanent Court of Arbitration, Second Delegate Plenipotentiary;

Rear-Admiral Siegel, Naval Attaché to the Imperial Embassy at Paris, Naval Delegate;

Major-General de Gündell, Quarter-Master General of the General Staff of the Royal Prussian Army, Military Delegate;

M. Zorn, Professor to the Faculty of Law at the University of Bonn, Judicial Privy Councillor, Member of the Prussian Upper Chamber, and Crown Syndic, Scientific Delegate;

M. Göppert, Councillor of Legation and Councillor attached to the Department for Foreign Affairs, Assistant Delegate;

M. Retzmann, Lieutenant-Commander on the Naval General Staff, Assistant Naval Delegate.

The United States of America:

His Excellency Mr. Joseph H. Choate, ex-Ambassador at London, Ambassador Extraordinary, Delegate Plenipotentiary;

His Excellency Mr. Horace Porter, ex-Ambassador at Paris, Ambassador Extraordinary, Delegate Plenipotentiary;

His Excellency Mr. Uriah M. Rose, Ambassador Extraordinary, Delegate Plenipotentiary;

The United States of America—Continued.

His Excellency Mr. David Jayne Hill, ex-Assistant Secretary of State, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate Plenipotentiary;

Rear-Admiral Charles S. Sperry, ex-President of the Naval War College, Minister Plenipotentiary, Delegate Plenipotentiary;

Brigadier-General George B. Davis, Judge Advocate-General of the United States' Army, Minister Plenipotentiary, Delegate Plenipotentiary;

Mr. William I. Buchanan, ex-Minister at Buenos Ayres, ex-Minister at Panamá, Minister Plenipotentiary, Delegate Plenipotentiary.

Mr. James Brown Scott, Solicitor for the Department of State, Technical Delegate;

Mr. Charles Henry Butler, Reporter of the Supreme Court, Technical Delegate.

The Argentine Republic:

His Excellency M. Roque Saenz Peña, ex-Minister for Foreign Affairs, Envoy Extraordinary and Minister Plenipotentiary at Rome, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency M. Luis M. Drago, ex-Minister for Foreign Affairs, Deputy, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency M. Carlos Rodríguez Larreta, ex-Minister for Foreign Affairs, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

General Francisco Reynolds, Military Attaché at Berlin, Technical Delegate;

Captain Juan A. Martin, ex-Minister of Marine, Naval Attaché at London, Technical Delegate.

Austria-Hungary:

His Excellency M. Gaëtan Mérey de Kapos-Mére, Privy Councillor of His Imperial and Royal Apostolic Majesty, Ambassador Extraordinary and Plenipotentiary, First Delegate Plenipotentiary;

His Excellency Baron Charles de Macchio, Envoy Extraordinary and Minister Plenipotentiary at Athens, Second Delegate Plenipotentiary;

M. Henri Lammasch, Professor at the University of Vienna, Aulic Councillor, Member of the Austrian Upper Chamber of the Reichsrath, Member of the Permanent Court of Arbitration, Scientific Delegate;

M. Antoine Haus, Rear-Admiral, Naval Delegate;

Baron Wladimir Giesl de Gieslingen, Major-General, Military Plenipotentiary at the Imperial and Royal Embassy at Constantinople and at the Imperial and Royal Legation at Athens, Military Delegate;

The Chevalier Othon de Weil, Aulic and Ministerial Councillor at the Ministry of the Imperial and Royal Household and of Foreign Affairs, Delegate;

M. Jules Szilassy de Szilas et Pilis, Councillor of Legation, Delegate;

M. Emile Konek de Norwall, Naval Lieutenant of the First Class, Delegate Attached.

Belgium:

His Excellency M. A. Beernaert, Minister of State, Member of the Chamber of Representatives, Member of the Institute of France and of the Royal Academies of Belgium and Roumania, Honorary Member of the Institute of International Law, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency M. J. van den Heuvel, Minister of State, ex-Minister of Justice, Delegate Plenipotentiary;

His Excellency Baron Guillaume, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Member of the Royal Academy of Roumania, Delegate Plenipotentiary.

Bolivia:

His Excellency M. Claudio Pinilla, Minister for Foreign Affairs, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency M. Fernando E. Guachalla, Minister Plenipotentiary at London, Delegate Plenipotentiary.

Brazil:

His Excellency M. Ruy Barbosa, Ambassador Extraordinary and Plenipotentiary, Vice-President of the Senate, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency M. Eduardo F. S. dos Santos Lisbôa, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate Plenipotentiary;

Colonel Roberto Trompowsky Leitâo de Almeida, Military Attaché at The Hague, Technical Delegate;

Commander Tancredo Burlamaqui de Moura, Technical Delegate.

Bulgaria:

Major-General on the staff Vrban Vinaroff, General *à la suite*, First Delegate Plenipotentiary;

M. Ivan Karandjouloff, Procureur-Général of the Court of Cassation, Second Delegate Plenipotentiary;

Commander S. Dimitrieff, Chief of the Staff of the Bulgarian Flotilla, Delegate.

Chile:

His Excellency M. Domingo Gana, Envoy Extraordinary and Minister Plenipotentiary at London, Delegate Plenipotentiary;

His Excellency M. Augusto Matte, Envoy Extraordinary and Minister Plenipotentiary at Berlin, Delegate Plenipotentiary;

His Excellency M. Carlos Concha, ex-Minister of War, ex-President of the Chamber of Deputies, ex-Envoy Extraordinary and Minister Plenipotentiary at Buenos Ayres, Delegate Plenipotentiary.

China:

His Excellency Mr. Lu Tsêng-Tsiang, Ambassador Extraordinary, Delegate Plenipotentiary;

His Excellency the Honourable John W. Foster, ex-Secretary of State at the United States' Department for Foreign Affairs, Delegate Plenipotentiary;

China—Continued.

His Excellency Mr. Tsien-Sun, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate Plenipotentiary;

Colonel W. S. Y. Tinge, Judge Advocate-General at the War Office, Military Delegate;

Mr. Chang Ching Tong, Secretary of Legation, Assistant Delegate;

Mr. Chao-Hi-Chiu, ex-Secretary of the Imperial Chinese Mission and Legation at Paris and Rome, Assistant Delegate.

Colombia:

General Jorge Holguin, Delegate Plenipotentiary;

M. Santiago Perez Triana, Delegate Plenipotentiary;

His Excellency General M. Vargas, Envoy Extraordinary and Minister Plenipotentiary at Paris, Delegate Plenipotentiary.

The Republic of Cuba:

M. Antonio Sanchez de Bustamante, Professor of International Law at the University of Havana, Senator of the Republic, Delegate Plenipotentiary;

His Excellency M. Gonzalo de Quesada y Arostégui, Envoy Extraordinary and Minister Plenipotentiary at Washington, Delegate Plenipotentiary;

M. Manuel Sanguily, ex-Director of the Institute of Secondary Education at Havana, Senator of the Republic, Delegate Plenipotentiary.

Denmark:

His Excellency M. C. Brun, Envoy Extraordinary and Minister Plenipotentiary at Washington, First Delegate Plenipotentiary;

Rear-Admiral C. F. Scheller, Second Delegate Plenipotentiary;

M. A. Vedel, Chamberlain, Head of Department at the Royal Ministry for Foreign Affairs, Third Delegate Plenipotentiary.

The Dominican Republic:

M. Francisco Henriquez i Carvajal, ex-Minister for Foreign Affairs, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

M. Apolinar Tejera, Rector of the Professional Institute of Santo Domingo, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary.

The Republic of the Ecuador:

His Excellency M. Victor Rendón, Envoy Extraordinary and Minister Plenipotentiary at Paris and Madrid, Delegate Plenipotentiary;

M. Enrique Dorn y de Alsua, Chargé d'Affaires, Delegate Plenipotentiary.

Spain:

His Excellency M. W. R. De Villa-Urrutia, Senator, ex-Minister for Foreign Affairs, Ambassador Extraordinary and Plenipotentiary at London, First Delegate Plenipotentiary;

His Excellency M. José de la Rica y Calvo, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate Plenipotentiary;

Spain—Continued.

M. Gabriel Maura y Gamazo, Count de la Mortera, Deputy to the Cortes, Delegate Plenipotentiary;

M. J. Jofre Montojo, Colonel on the Staff, Aide-de-camp to the Minister of War, Assistant Military Delegate;

Captain Francisco Chacon, Assistant Naval Delegate.

France:

His Excellency M. Léon Bourgeois, Ambassador Extraordinary, Senator, ex-President of the Council, ex-Minister for Foreign Affairs, Member of the Permanent Court of Arbitration, Delegate, First Plenipotentiary;

Baron d'Estournelles de Constant, Senator, Minister Plenipotentiary of the First Class, Member of the Permanent Court of Arbitration, Delegate, Second Plenipotentiary;

M. Louis Renault, Professor at the Faculty of Law at Paris, Honorary Minister Plenipotentiary, Legal Adviser to the Ministry for Foreign Affairs, Member of the Institute, Member of the Permanent Court of Arbitration, Delegate, Third Plenipotentiary;

His Excellency M. Marcellin Pellet, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate, Fourth Plenipotentiary;

General of Division Amourel, Military Delegate;

Rear-Admiral Arago, Naval Delegate;

M. Fromageot, Advocate at the Court of Appeal at Paris, Technical Delegate;

Captain Lacaze, Second Naval Delegate;

Lieutenant-Colonel Siben, Military Attaché at Brussels and The Hague, Second Military Delegate.

Great Britain:

His Excellency the Right Honourable Sir Edward Fry, G.C.B., Member of the Privy Council, Ambassador Extraordinary, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency the Right Honorable Sir Ernest Mason Satow, G.C.M.G., Member of the Privy Council, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency the Right Honorable Lord Reay, G.C.S.I., G.C.I.E., Member of the Privy Council, ex-President of the Institute of International Law, Delegate Plenipotentiary.

His Excellency Sir Henry Howard, K.C.M.G., C.B., Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate Plenipotentiary;

Lieutenant-General Sir Edmond R. Elles, G.C.I.E., K.C.B., Military Delegate;

Captain C. L. Ottley, M.V.O., R.N., A.D.C., Naval Delegate;

Mr. Eyre Crowe, Councillor of Embassy, Technical Delegate, First Secretary to the delegation;

Mr. Cecil Hurst, Councillor of Embassy, Technical Delegate, Legal Adviser to the delegation;

Great Britain—Continued.

Lieutenant-Colonel the Honourable Henry Yarde-Buller, D.S.O., Military Attaché at The Hague, Technical Delegate;

Commander J. R. Segrave, R.N., Technical Delegate;

Major George K. Cockerill, General Staff, Technical Delegate.

Greece:

His Excellency M. Cléon Rizo Rangabé, Envoy Extraordinary and Minister Plenipotentiary at Berlin, First Delegate Plenipotentiary;

M. Georges Streit, Professor of International Law at the University of Athens, Member of the Permanent Court of Arbitration, Second Delegate Plenipotentiary;

Colonel of Artillery C. Sapountzakis, Chief of the General Staff, Technical Delegate.

Guatemala:

M. José Tible Machado, Chargé d'Affaires at The Hague and London, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

M. Enrique Gomez Carrillo, Chargé d'Affaires at Berlin, Delegate Plenipotentiary.

The Republic of Haïti:

His Excellency M. Jean Joseph Dalbémar, Envoy Extraordinary and Minister Plenipotentiary at Paris, Delegate Plenipotentiary;

His Excellency M. J. N. Léger, Envoy Extraordinary and Minister Plenipotentiary at Washington, Delegate Plenipotentiary;

M. Pierre Hudicourt, ex-Professor of International Public Law, Advocate at the Bar of Port-au-Prince, Delegate Plenipotentiary.

Italy:

His Excellency Count Joseph Tornielli Brusati di Vergano, Senator of the Kingdom, Ambassador of His Majesty the King at Paris, Member of the Permanent Court of Arbitration, President of the Italian delegation, Delegate Plenipotentiary;

His Excellency M. Guido Pompilj, Parliamentary Deputy, Under-Secretary of State at the Royal Ministry for Foreign Affairs, Delegate Plenipotentiary;

M. Guido Fusinato, Councillor of State, Parliamentary Deputy, ex-Minister of Education, Delegate Plenipotentiary;

M. Marius Nicolis de Robilant, General of Brigade, Technical Delegate;

M. François Castiglia, Captain in the Navy, Technical Delegate.

Japan:

His Excellency Mr. Keiroku Tsudzuki, Ambassador Extraordinary and Plenipotentiary, First Delegate Plenipotentiary;

His Excellency Mr. Aimaro Sato, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Second Delegate Plenipotentiary;

Mr. Henry Willard Denison, Legal Adviser to the Imperial Ministry for Foreign Affairs, Member of the Permanent Court of Arbitration, Technical Delegate;

Major-General Yoshifuru Akiyama, Inspector of Cavalry, Technical Delegate;

Rear-Admiral Hayao Shimamura, President of the Naval College at Etajima, Technical Delegate.

Luxemburg:

His Excellency M. Eyschen, Minister of State, President of the Grand-Ducal Government, Delegate Plenipotentiary;

Count de Villiers, Chargé d'Affaires at Berlin, Delegate Plenipotentiary.

Mexico:

His Excellency M. Gonzalo A. Esteva, Envoy Extraordinary and Minister Plenipotentiary at Rome, First Delegate Plenipotentiary:

His Excellency M. Sebastian B. de Mier, Envoy Extraordinary and Minister Plenipotentiary at Paris, Second Delegate Plenipotentiary;

His Excellency M. Francisco L. de la Barra, Envoy Extraordinary and Minister Plenipotentiary at Brussels and at The Hague, Third Delegate Plenipotentiary.

Montenegro:

His Excellency M. Nélidow, Privy Councillor, Russian Ambassador at Paris, Delegate Plenipotentiary;

His Excellency M. de Martens, Privy Councillor, Permanent Member of the Council of the Imperial Russian Ministry for Foreign Affairs, Delegate Plenipotentiary;

His Excellency M. Tcharykow, Councillor of State, Chamberlain, Envoy Extraordinary and Minister Plenipotentiary of Russia at The Hague, Delegate Plenipotentiary.

Nicaragua:

His Excellency M. Crisanto Medina, Envoy Extraordinary and Minister Plenipotentiary at Paris, Delegate Plenipotentiary.

Norway:

His Excellency M. Francis Hagerup, ex-President of the Council, ex-Professor of Law, Member of the Permanent Court of Arbitration, Envoy Extraordinary and Minister Plenipotentiary at The Hague and Copenhagen, Delegate Plenipotentiary;

M. Joachim Grieg, Shipowner and Deputy, Technical Delegate.

M. Christian Lous Lange, Secretary to the Nobel Committee of the Norwegian Storthing, Technical Delegate.

Panamá:

M. Belisario Porras, Delegate Plenipotentiary.

Paraguay:

His Excellency M. Eusebio Machain, Envoy Extraordinary and Minister Plenipotentiary at Paris, Delegate Plenipotentiary.

The Netherlands:

M. W. H. de Beaufort, ex-Minister for Foreign Affairs, Member of the Second Chamber of the States-General, Delegate Plenipotentiary;

His Excellency M. T. M. C. Asser, Minister of State, Member of the Council of State, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency Jonkheer J. C. C. Den Beer Poortugael, Lieutenant-General on the retired list, ex-Minister of War, Member of the Council of State, Delegate Plenipotentiary;

The Netherlands—Continued.

His Excellency Jonkheer J. A. Röell, Aide-de-camp to Her Majesty the Queen in Extraordinary Service, Vice-Admiral on the retired list, ex-Minister of Marine, Delegate Plenipotentiary;

M. J. A. Loeff, ex-Minister of Justice, Member of the Second Chamber of the States-General, Delegate Plenipotentiary;

M. H. L. van Oordt, Lieutenant-Colonel on the Staff, Professor at the Higher Military College, Technical Delegate;

M. Jonkheer W. J. M. van Eysinga, Head of the Political Section at the Ministry for Foreign Affairs, Assistant Delegate;

M. Jonkheer H. A. van Karnebeek, Gentleman of the Chamber, Assistant Head of Department at the Colonial Office, Assistant Delegate;

M. H. G. Surie, Naval Lieutenant of the First Class, Technical Delegate.

Peru:

His Excellency M. Carlos G. Candamo, Envoy Extraordinary and Minister Plenipotentiary at Paris and London, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

M. Gustavo de la Fuente, First Secretary of Legation at Paris, Assistant Delegate.

Persia:

His Excellency Samad Khan, Momtas-es-Saltaneh, Envoy Extraordinary and Minister Plenipotentiary at Paris, Member of the Permanent Court of Arbitration, Delegate, First Plenipotentiary;

His Excellency Mirza Ahmed Khan Sadig-ul-Mulkh, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate Plenipotentiary;

M. Hennebicq, Legal Adviser to the Minister for Foreign Affairs at Tehran, Technical Delegate.

Portugal:

His Excellency the Marquis de Soveral, Councillor of State, Peer of the Realm, ex-Minister for Foreign Affairs, Envoy Extraordinary and Minister Plenipotentiary at London, Ambassador Extraordinary and Plenipotentiary, Delegate Plenipotentiary;

His Excellency Count de Sélir, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate Plenipotentiary;

His Excellency M. Alberto d'Oliveira, Envoy Extraordinary and Minister Plenipotentiary at Berne, Delegate Plenipotentiary;

Lieutenant-Colonel Thomaz Antonio Garcia Rosado, General Staff, Technical Delegate;

M. Guilherme Ivens Ferraz, Lieutenant-Commander in the Navy, Technical Delegate.

Roumania:

His Excellency M. Alexandre Beldiman, Envoy Extraordinary and Minister Plenipotentiary at Berlin, First Delegate Plenipotentiary;

His Excellency M. Edgard Mavrocordato, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Second Delegate Plenipotentiary;

Captain Alexander Sturdza, General Staff, Technical Delegate.

Russia:

His Excellency M. Nélidow, Privy Councillor, Russian Ambassador at Paris, Delegate Plenipotentiary;

His Excellency M. de Martens, Privy Councillor, Permanent Member of the Council of the Imperial Ministry for Foreign Affairs, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency M. Tcharykow, Councillor of State, Chamberlain, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate Plenpiotentiary;

M. Prozor, Councillor of State, Chamberlain, Russian Minister at Rio de Janeiro, Technical Delegate;

Major-General Yermolow, Military Attaché at London, Technical Delegate;

Colonel Michelson, Military Attaché at Berlin, Technical Delegate.

Captain Behr, Naval Attaché at London, Technical Delegate;

Colonel Ovtchinnikow, of the Admiralty, Professor of International Law at the Naval Academy, Technical Delegate.

Salvador:

M. Pedro J. Matheu, Chargé d'Affaires at Paris, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

M. Santiago Perez Triana, Chargé d'Affaires at London, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary.

Servia:

His Excellency General Sava Grouïtch, President of the Council of State, Delegate Plenipotentiary;

His Excellency M. Milovan Milovanovitch, Envoy Extraordinary and Minister Plenipotentiary at Rome, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

His Excellency M. Michel Militchévitch, Envoy Extraordinary and Minister Plenipotentiary at London and The Hague, Delegate Plenipotentiary.

Siam:

Major-General Mom Chatidej Udom, Delegate Plenipotentiary;

M. Corragioni d'Orelli, Councillor of Legation at Paris, Delegate Plenipotentiary;

Captain Luang Bhuvanarth Narübal, Delegate Plenipotentiary.

Sweden:

His Excellency M. Knut Hjalmar Leonard de Hammarskjöld, Envoy Extraordinary and Minister Plenipotentiary at Copenhagen, ex-Minister of Justice, Member of the Premanent Court of Arbitration, First Delegate Plenipotentiary;

M. Johannes Hellner, ex-Minister without Portfolio, ex-Member of the Supreme Court of Sweden, Member of the Permanent Court of Arbitration, Second Delegate Plenipotentiary;

Colonel David Hedengren, Commanding a Regiment of Artillery, Technical Delegate;

Commander Gustaf de Klint, Head of a Section on the Staff of the Royal Navy, Technical Delegate.

Switzerland:

His Excellency M. Gaston Carlin, Envoy Extraordinary and Minister Plenipotentiary at London and The Hague, Delegate Plenipotentiary;

M. Eugène Borel, Colonel on the General Staff, Professor at the University of Geneva, Delegate Plenipotentiary;

M. Max Huber, Professor of Law at the University of Zurich, Delegate Plenipotentiary.

Turkey:

His Excellency Turkhan Pasha, Ambassador Extraordinary, Minister of the Evkaf, First Delegate Plenipotentiary;

His Excellency Rechid Bey, Turkish Ambassador at Rome, Delegate Plenipotentiary;

His Excellency Vice-Admiral Mehemmed Pasha, Delegate Plenipotentiary;

Raïf Bey, Legal Adviser on the Civil List, Assistant Delegate;

Colonel on the Staff Mehemmed Saïd Bey, Assistant Delegate.

Uruguay:

M. José Batlle y Ordonez, ex-President of the Republic, Member of the Permanent Court of Arbitration, First Delegate Plenipotentiary;

His Excellency M. Juan P. Castro, ex-President of the Senate, Envoy Extraordinary and Minister Plenipotentiary at Paris, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

Colonel Sebastian Buquet, Commanding a Regiment of Field Artillery, Technical Delegate.

The United States of Venezuela:

M. José Gil Fortoul, Chargé d'Affaires at Berlin, Delegate Plenipotentiary.

At a series of meetings, held from the 15th June to the 18th October, 1907, in which the above Delegates were throughout animated by the desire to realize, in the fullest possible measure, the generous views of the august initiator of the Conference and the intentions of their Governments, the Conference drew up for submission for signature by the Plenipotentiaries, the text of the Conventions and of the Declaration enumerated below and annexed to the present Act:

1. Convention for the Pacific Settlement of International Disputes.
2. Convention respecting the Limitation of the Employment of Force for the Recovery of Contract Debts.
3. Convention relative to the Opening of Hostilities.
4. Convention respecting the Laws and Customs of War on Land.
5. Convention respecting the Rights and Duties of Neutral Powers and Persons in case of War on Land.
6. Convention relative to the Status of Enemy Merchant-ships at the Outbreak of Hostilities.

7. Convention relative to the Conversion of Merchant-ships into War-ships.
8. Convention relative to the Laying of Automatic Submarine Contact Mines.
9. Convention respecting Bombardment by Naval Forces in Time of War.
10. Convention for the Adaptation to Naval War of the Principles of the Geneva Convention.
11. Convention relative to certain Restrictions with regard to the Exercise of the Right of Capture in Naval War.
12. Convention relative to the creation of an International Prize Court.
13. Convention concerning the Rights and Duties of Neutral Powers in Naval War.
14. Declaration prohibiting the discharge of Projectiles and Explosives from Balloons.

These Conventions and Declaration shall form so many separate Acts. These Acts shall be dated this day, and may be signed up to the 30th June, 1908, at The Hague, by the Plenipotentiaries of the Powers represented at the Second Peace Conference.

The Conference actuated by the spirit of mutual agreement and concession characterizing its deliberations, has agreed upon the following Declaration, which, while reserving to each of the Powers represented full liberty of action as regards voting, enables them to affirm the principles which they regard as unanimously admitted:

It is unanimous—

1. In admitting the principle of compulsory arbitration.
2. In declaring that certain disputes, in particular those relating to the interpretation and application of the provisions of International Agreements, may be submitted to compulsory arbitration without any restriction.

Finally, it is unanimous in proclaiming that, although it has not yet been found feasible to conclude a Convention in this sense, nevertheless the divergences of opinion which have come to light have not exceeded the bounds of judicial controversy, and that, by working together here during the past four months, the collected Powers not only have learned to understand one another and to draw closer together, but have succeeded in the course of this long collaboration in evolving a very lofty conception of the common welfare of humanity.

The Conference has further unanimously adopted the following Resolution:

The Second Peace Conference confirms the Resolution adopted by the Conference of 1899 in regard to the limitation of military expenditure; and inasmuch as military expenditure has considerably increased in almost every country since that time, the Conference declares that it is eminently desirable that the Governments should resume the serious examination of this question.

It has besides expressed the following opinions:

1. The Conference calls the attention of the Signatory Powers to the advisability of adopting the annexed draft Convention for the creation of a Judicial Arbitration Court, and of bringing it into force as soon as an agreement has been reached respecting the selection of the Judges and the constitution of the Court.
2. The Conference expresses the opinion that, in case of war, the responsible authorities, civil as well as military, should make it their special duty to ensure and safeguard the maintenance of pacific relations, more especially of the commercial and industrial relations between the inhabitants of the belligerent States and neutral countries.
3. The Conference expresses the opinion that the Powers should regulate, by special Treaties, the position, as regards military charges, of foreigners residing within their territories.
4. The Conference expresses the opinion that the preparation of regulations relative to the laws and customs of naval war should figure in the programme of the next Conference, and that in any case the Powers may apply, as far as possible, to war by sea the principles of the Convention relative to the Laws and Customs of War on land.

Finally, the Conference recommends to the Powers the assembly of a Third Peace Conference, which might be held within a period corresponding to that which has elapsed since the preceding Conference, at a date to be fixed by common agreement between the Powers, and it calls their attention to the necessity of preparing the programme of this Third Conference a sufficient time in advance to ensure its deliberations being conducted with the necessary authority and expedition.

In order to attain this object the Conference considers that it would be very desirable that, some two years before the probable date of the meeting, a preparatory Committee should be charged by the Governments with the task of collecting the various proposals to be submitted to the Conference, of ascertaining what subjects are ripe for embodiment in an International Regulation, and of preparing a programme which the Governments should decide upon in sufficient time to enable it to be carefully examined by the countries interested. This Committee should further be intrusted with the task of proposing a system of organization and procedure for the Conference itself.

In faith whereof the Plenipotentiaries have signed the present Act and have affixed their seals thereto.[a]

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherlands Government, and duly certified copies of which shall be sent to all the Powers represented at the Conference.

[a] See at end, Table of Signatures.

ANNEX TO THE FIRST OPINION EXPRESSED BY THE SECOND PEACE CONFERENCE.

Draft Convention relative to the Creation of a Judicial Arbitration Court.

PART I.—*Constitution of the Judicial Arbitration Court.*

ARTICLE 1.

With a view to promoting the cause of arbitration, the Contracting Powers agree to constitute, without altering the status of the Permanent Court of Arbitration, a Judicial Arbitration Court, of free and easy access, composed of Judges representing the various juridical systems of the world, and capable of insuring continuity in jurisprudence of arbitration.

ARTICLE 2.

The Judicial Arbitration Court is composed of Judges and Deputy Judges chosen from persons of the highest moral reputation, and all fulfilling conditions qualifying them, in their respective countries, to occupy high legal posts, or be jurists of recognized competence in matters of international law.

The Judges and Deputy Judges of the Court are appointed, as far as possible, from the members of the Permanent Court of Arbitration. The appointment shall be made within the six months following the ratification of the present Convention.

ARTICLE 3.

The Judges and Deputy Judges are appointed for a period of twelve years, counting from the date on which the appointment is notified to the Administrative Council created by the Convention for the Pacific Settlement of International Disputes. Their appointments can be renewed.

Should a Judge or Deputy Judge die or retire, the vacancy is filled in the manner in which his appointment was made. In this case, the appointment is made for a fresh period of twelve years.

ARTICLE 4.

The Judges of the Judicial Arbitration Court are equal and rank according to the date on which their appointment was notified. The Judge who is senior in point of age takes precedence when the date of notification is the same.

The Deputy Judges are assimilated, in the exercise of their functions, with the Judges. They rank, however, below the latter.

ARTICLE 5.

The Judges enjoy diplomatic privileges and immunities in the exercise of their functions, outside their own country.

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Before taking their seat, the Judges and Deputy Judges must swear, before the Administrative Council, or make a solemn affirmation to exercise their functions impartially and conscientiously.

ARTICLE 6.

The Court annually nominates three Judges to form a special delegation and three more to replace them should the necessity arise. They may be re-elected. They are balloted for. The persons who secure the largest number of votes are considered elected. The delegation itself elects its President, who, in default of a majority, is appointed by lot.

A member of the delegation cannot exercise his duties when the Power which appointed him, or of which he is a national, is one of the parties.

The members of the delegation are to conclude all matters submitted to them, even if the period for which they have been appointed Judges has expired.

ARTICLE 7.

A Judge may not exercise his judicial functions in any case in which he has, in any way whatever, taken part in the decision of a National Tribunal, of a Tribunal of Arbitration, or of a Commission of Inquiry, or has figured in the suit as counsel or advocate for one of the parties.

A Judge cannot act as agent or advocate before the Judicial Arbitration Court or the Permanent Court of Arbitration, before a Special Tribunal of Arbitration or a Commission of Inquiry, nor act for one of the parties in any capacity whatsoever so long as his appointment lasts.

ARTICLE 8.

The Court elects its President and Vice-President by an absolute majority of the votes cast. After two ballots, the election is made by a bare majority and, in case the votes are even, by lot.

ARTICLE 9.

The Judges of the Judicial Arbitration Court receive an annual salary of 6,000 Netherlands florins. This salary is paid at the end of each half-year, reckoned from the date on which the Court meets for the first time.

In the exercise of their duties during the sessions or in the special cases covered by the present Convention, they receive the sum of 100 florins per diem. They are further entitled to receive a travelling allowance fixed in accordance with Regulations existing in their own country. The provisions of the present paragraph are applicable also to a Deputy Judge when acting for a Judge.

These emoluments are included in the general expenses of the Court dealt with in Article 31 and are paid through the International Bureau created by the Convention for the Pacific Settlement of International Disputes.

ARTICLE 10.

The Judges may not accept from their own Government or from that of any other Power any remuneration for services connected with their duties in their capacity of members of the Court.

ARTICLE 11.

The seat of the Judicial Court of Arbitration is at The Hague, and cannot be transferred, unless absolutely obliged by circumstances, elsewhere.

The delegation may choose, with the assent of the parties concerned, another site for its meetings, if special circumstances render such a step necessary.

ARTICLE 12.

The Administrative Council fulfils with regard to the Judicial Court of Arbitration the same functions as to the Permanent Court of Arbitration.

ARTICLE 13.

The International Bureau acts as registry to the Judicial Court of Arbitration, and must place its offices and staff at the disposal of the Court. It has charge of the archives and carries out the administrative work.

The Secretary-General of the Bureau discharges the functions of Registrar.

The necessary secretaries to assist the Registrar, translators and shorthand writers are appointed and sworn in by the Court.

ARTICLE 14.

The Court meets in session once a year. The session opens the third Wednesday in June and lasts until all the business on the agenda has been transacted.

The Court does not meet in session if the delegation considers that such meeting is unnecessary. However, when a Power is party in a case actually pending before the Court, the pleadings in which are closed, or about to be closed, it may insist that the session should be held.

When necessary, the delegation may summon the Court in extraordinary session.

ARTICLE 15.

A Report of the doings of the Court shall be drawn up every year by the delegation. This Report shall be forwarded to the Contracting Powers through the International Bureau. It shall also be communicated to the Judges and Deputy Judges of the Court.

ARTICLE 16.

The Judges and Deputy Judges, members of the Judicial Arbitration Court, can also exercise the functions of Judge and Deputy Judge in the International Prize Court.

PART II.—*Competency and Procedure.*

ARTICLE 17.

The Judicial Court of Arbitration is competent to deal with all cases submitted to it, in virtue either of a general undertaking to have recourse to arbitration or of a special agreement.

ARTICLE 18.

The delegation is competent—

1. To decide the arbitrations referred to in the preceding Article, if the parties concerned are agreed that the summary procedure, laid down in Part IV, Chapter IV, of the Convention for the Pacific Settlement of International Disputes is to be applied;
2. To hold an inquiry under and in accordance with Part III of the said Convention, in so far as the delegation is intrusted with such inquiry by the parties acting in common agreement. With the assent of the parties concerned, and as an exception to Article 7, paragraph 1, the members of the delegation who have taken part in the inquiry may sit as Judges, if the case in dispute is submitted to the arbitration of the Court or of the delegation itself.

ARTICLE 19.

The delegation is also competent to settle the *Compromis* referred to in Article 52 of the Convention for the Pacific Settlement of International Disputes if the parties are agreed to leave it to the Court.

It is equally competent to do so, even when the request is only made by one of the parties concerned, if all attempts have failed to reach an understanding through the diplomatic channel, in the case of—

1. A dispute covered by a general Treaty of Arbitration concluded or renewed after the present Convention has come into force, providing for a *Compromis* in all disputes, and not either explicitly or implicitly excluding the settlement of the *Compromis* from the competence of the delegation. Recourse cannot, however, be had to the Court if the other party declares that in its opinion the dispute does not belong to the category of questions to be submitted to compulsory arbitration, unless the Treaty of Arbitration confers upon the Arbitration Tribunal the power of deciding this preliminary question.
2. A dispute arising from contract debts claimed from one Power by another Power as due to its nationals, and for the settlement of which the offer of arbitration has been accepted. This arrangement is not applicable if acceptance is subject to the condition that the *Compromis* should be settled in some other way.

ARTICLE 20.

Each of the parties concerned may nominate a Judge of the Court to take part, with power to vote, in the examination of the case submitted to the delegation.

If the delegation acts as a Commission of Inquiry, this task may be intrusted to persons other than the Judges of the Court. The traveling expenses and remuneration to be given to the said persons are fixed and borne by the Powers appointing them.

ARTICLE 21.

The Contracting Powers only may have access to the Judicial Arbitration Court set up by the present Convention.

ARTICLE 22.

The Judicial Court of Arbitration follows the rules of procedure laid down in the Convention for the Pacific Settlement of International Disputes, except in so far as the procedure is laid down in the present Convention.

ARTICLE 23.

The Court determines what language it will itself use and what languages may be used before it.

ARTICLE 24.

The International Bureau serves as channel for all communications to be made to the Judges during the interchange of pleadings provided for in Article 63, paragraph 2, of the Convention for the Pacific Settlement of International Disputes.

ARTICLE 25.

For all notices to be served, in particular on the parties, witnesses, or experts, the Court may apply direct to the Government of the State on whose territory the service is to be carried out. The same rule applies in the case of steps being taken to procure evidence.

The requests addressed for this purpose can only be rejected when the Power applied to considers them likely to impair its sovereign rights or its safety. If the request is complied with, the fees charged must only comprise the expenses actually incurred.

The Court is equally entitled to act through the Power on whose territory it sits.

Notices to be given to parties in the place where the Court sits may be served through the International Bureau.

ARTICLE 26.

The discussions are under the control of the President or Vice-President, or, in case they are absent or cannot act, of the senior Judge present.

The Judge appointed by one of the parties cannot preside.

ARTICLE 27.

The Court considers its decisions in private, and the proceedings are secret.

All decisions are arrived at by a majority of the Judges present. If the number of Judges is even and equally divided, the vote of the junior Judge, in the order of precedence laid down in Article IV, paragraph 1, is not counted.

ARTICLE 28.

The judgment of the Court must give the reasons on which it is based. It contains the names of the Judges taking part in it; it is signed by the President and Registrar.

ARTICLE 29.

Each party pays its own costs and an equal share of the costs of the trial.

ARTICLE 30.

The provisions of Articles 21 to 29 are applicable by analogy to the procedure before the delegation.

When the right of attaching a member to the delegation has been exercised by one of the parties only, the vote of the member attached is not recorded if the votes are evenly divided.

ARTICLE 31.

The general expenses of the Court are borne by the Contracting Powers.

The Administrative Council applies to the Powers to obtain the funds requisite for the working of the Court.

ARTICLE 32.

The Court itself draws up its own rules of procedure, which must be communicated to the Contracting Powers.

After the ratification of the present Convention the Court shall meet as early as possible in order to elaborate these rules, elect the President and Vice-President, and appoint the members of the delegation.

ARTICLE 33.

The Court may propose modifications in the provisions of the present Convention concerning procedure. These proposals are communicated through the Netherlands Government to the Contracting Powers, which will consider together as to the measures to be taken.

PART III.—*Final Provisions.*

ARTICLE 34.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

A *procès-verbal* of the deposit of each ratification shall be drawn up, of which a duly certified copy shall be sent through the diplomatic channel to all the Signatory Powers.

ARTICLE 35.

The Convention shall come into force six months after its ratification.

It shall remain in force for twelve years, and shall be tacitly renewed for periods of twelve years, unless denounced.

The denunciation must be notified, at least two years before the expiration of each period, to the Netherlands Government, which will inform the other Powers.

The denunciation shall only have effect in regard to the notifying Power. The Convention shall continue in force as far as the other Powers are concerned.

CONVENTION FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES.

Signed by the United States Delegates. Ratification advised by the Senate, April 2, 1908.

The Contracting Powers (see Final Act) animated by a sincere desire to work for the maintenance of general peace;

Resolved to promote by all the efforts in their power the friendly settlement of international disputes;

Recognizing the solidarity uniting the members of the society of civilized nations;

Desirous of extending the empire of law and of strengthening the appreciation of international justice;

Convinced that the permanent institution of a Tribunal of Arbitration accessible to all, in the midst of independent Powers, will contribute effectively to this result;

Having regard to the advantages attending the general and regular organization of the procedure of arbitration;

Sharing the opinion of the august initiator of the International Peace Conference that it is expedient to record in an International Agreement the principles of equity and right on which are based the security of States and the welfare of peoples;

Being desirous, with this object, of insuring the better working in practice of Commissions of Inquiry and Tribunals of Arbitration, and of facilitating recourse to arbitration in cases which allow of a summary procedure;

Have deemed it necessary to revise in certain particulars and to complete the work of the First Peace Conference for the pacific settlement of international disputes;

The High Contracting Parties have resolved to conclude a new Convention for this purpose, and have appointed the following as their Plenipotentiaries:

[For names of Plenipotentiaries, see Final Act.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following:

PART I.—*The Maintenance of General Peace.*

ARTICLE 1.

With a view to obviating as far as possible recourse to force in the relations between States, the Contracting Powers agree to use their best efforts to ensure the pacific settlement of international differences.

PART II.—*Good Offices and Mediation.*

ARTICLE 2.

In case of serious disagreement or dispute, before an appeal to arms, the Contracting Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers.

ARTICLE 3.

Independently of this recourse, the Contracting Powers deem it expedient and desirable that one or more Powers, strangers to the dispute, should, on their own initiative and as far as circumstances may allow, offer their good offices or mediation to the States at variance.

Powers strangers to the dispute have the right to offer good offices or mediation even during the course of hostilities.

The exercise of this right can never be regarded by either of the parties in dispute as an unfriendly act.

TITRE I.—*Du maintien de la paix générale.*

ARTICLE PREMIER.

En vue de prévenir autant que possible le recours à la force dans les rapports entre les Etats, les Puissances contractantes conviennent d'employer tous leurs efforts pour assurer le règlement pacifique des différends internationaux.

TITRE II.—*Des bons offices et de la médiation.*

ARTICLE 2.

En cas de dissentiment grave ou de conflit, avant d'en appeler aux armes, les Puissances contractantes conviennent d'avoir recours, en tant que les circonstances le permettront, aux bons offices ou à la médiation d'une ou de plusieurs Puissances amies.

ARTICLE 3.

Indépendamment de ce recours, les Puissances contractantes jugent utile et désirable qu'une ou plusieurs Puissances étrangères au conflit offrent de leur propre initiative, en tant que les circonstances s'y prêtent, leurs bons offices ou leur médiation aux Etats en conflit.

Le droit d'offrir les bons offices ou la médiation appartient aux Puissances étrangères au conflit, même pendant le cours des hostilités.

L'exercice de ce droit ne peut jamais être considéré par l'une ou l'autre des Parties en litige comme un acte peu amical.

ARTICLE 4.

The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the States at variance.

ARTICLE 5.

The functions of the mediator are at an end when once it is declared, either by one of the parties to the dispute or by the mediator himself, that the means of reconciliation proposed by him are not accepted.

ARTICLE 6.

Good offices and mediation undertaken either at the request of the parties in dispute or on the initiative of Powers strangers to the dispute have exclusively the character of advice, and never have binding force.

ARTICLE 7.

The acceptance of mediation cannot, unless there be an agreement to the contrary, have the effect of interrupting, delaying, or hindering mobilization or other measures of preparation for war.

If it takes place after the commencement of hostilities, the military operations in progress are not interrupted in the absence of an agreement to the contrary.

ARTICLE 8.

The Contracting Powers are agreed in recommending the application, when circumstances allow, of special mediation in the following form:

ARTICLE 4.

Le rôle du médiateur consiste à concilier les prétentions opposées et à apaiser les ressentiments qui peuvent s'être produits entre les Etats en conflit.

ARTICLE 5.

Les fonctions du médiateur cessent du moment où il est constaté, soit par l'une des Parties en litige, soit par le médiateur lui-même, que les moyens de conciliation proposés par lui ne sont pas acceptés.

ARTICLE 6.

Les bons offices et la médiation, soit sur le recours des Parties en conflit, soit sur l'initiative des Puissances étrangères au conflit, ont exclusivement le caractère de conseil et n'ont jamais force obligatoire.

ARTICLE 7.

L'acceptation de la médiation ne peut avoir pour effet, sauf convention contraire, d'interrompre, de retarder ou d'entraver la mobilisation et autres mesures préparatoires à la guerre.

Si elle intervient après l'ouverture des hostilités, elle n'interrompt pas, sauf convention contraire, les opérations militaires en cours.

ARTICLE 8.

Les Puissances contractantes sont d'accord pour recommander l'application, dans les circonstances qui le permettent, d'une médiation spéciale sous la forme suivante.

In case of a serious difference endangering peace, the States at variance choose respectively a Power, to which they intrust the mission of entering into direct communication with the Power chosen on the other side, with the object of preventing the rupture of pacific relations.

For the period of this mandate, the term of which, unless otherwise stipulated, cannot exceed thirty days, the States in dispute cease from all direct communication on the subject of the dispute, which is regarded as referred exclusively to the mediating Powers, which must use their best efforts to settle it.

In case of a definite rupture of pacific relations, these Powers are charged with the joint task of taking advantage of any opportunity to restore peace.

PART III.—*International Commissions of Inquiry.*

ARTICLE 9.

In disputes of an international nature involving neither honor nor vital interests, and arising from a difference of opinion on points of fact, the Contracting Powers deem it expedient and desirable that the parties who have not been able to come to an agreement by means of diplomacy, should, as far as circumstances allow, institute an International Commission of Inquiry, to facilitate a solution of these disputes by elucidating the facts by means of an impartial and conscientious investigation.

ARTICLE 10.

International Commissions of Inquiry are constituted by special agreement between the parties in dispute.

En cas de différend grave compromettant la paix, les Etats en conflit choisissent respectivement une Puissance à laquelle ils confient la mission d'entrer en rapport direct avec la Puissance choisie d'autre part, à l'effet de prévenir la rupture des relations pacifiques.

Pendant la durée de ce mandat dont le terme, sauf stipulation contraire, ne peut excéder trente jours, les Etats en litige cessent tout rapport direct au sujet du conflit, lequel est considéré comme déféré exclusivement aux Puissances médiatrices. Celles-ci doivent appliquer tous leurs efforts à régler le différend.

En cas de rupture effective des relations pacifiques, ces Puissances demeurent chargées de la mission commune de profiter de toute occasion pour rétablir la paix.

TITRE III.—*Des Commissions internationales d'enquête.*

ARTICLE 9.

Dans les litiges d'ordre international n'engageant ni l'honneur ni des intérêts essentiels et provenant d'une divergence d'appréciation sur des points de fait, les Puissances contractantes jugent utile et désirable que les Parties qui n'auraient pu se mettre d'accord par les voies diplomatiques instituent, en tant que les circonstances le permettront, une Commission internationale d'enquête chargée de faciliter la solution de ces litiges en éclaircissant, par un examen impartial et consciencieux, les questions de fait.

ARTICLE 10.

Les Commissions internationales d'enquête sont constituées par convention spéciale entre les Parties en litige.

The Inquiry Convention defines the facts to be examined; it determines the mode and time in which the Commission is to be formed and the extent of the powers of the Commissioners.

It also determines, if there is need, where the Commission is to sit, and whether it may remove to another place, the language the Commission shall use and the languages the use of which shall be authorized before it, as well as the date on which each party must deposit its statement of facts, and, generally speaking, all the conditions upon which the parties have agreed.

If the parties consider it necessary to appoint Assessors, the Convention of Inquiry shall determine the mode of their selection and the extent of their powers.

ARTICLE 11.

If the Inquiry Convention has not determined where the Commission is to sit, it will sit at The Hague.

The place of meeting, once fixed, cannot be altered by the Commission except with the assent of the parties.

If the Inquiry Convention has not determined what languages are to be employed, the question shall be decided by the Commission.

ARTICLE 12.

Unless an undertaking is made to the contrary, Commissions of Inquiry shall be formed in the manner determined by Articles 45 and 57 of the present Convention.

ARTICLE 13.

Should one of the Commissioners or one of the Assessors, should there be any, either die, or resign, or be

La convention d'enquête précise les faits à examiner; elle détermine le mode et le délai de formation de la Commission et l'étendue des pouvoirs des Commissaires.

Elle détermine également, s'il y a lieu, le siège de la Commission et la faculté de se déplacer, la langue dont la Commission fera usage et celles dont l'emploi sera autorisé devant elle, ainsi que la date à laquelle chaque Partie devra déposer son exposé des faits, et généralement toutes les conditions dont les Parties sont convenues.

Si les Parties jugent nécessaire de nommer des assesseurs, la convention d'enquête détermine le mode de leur désignation et l'étendue de leurs pouvoirs.

ARTICLE 11.

Si la convention d'enquête n'a pas désigné le siège de la Commission, celle-ci siégera à La Haye.

Le siège une fois fixé ne peut être changé par la Commission qu'avec l'assentiment des Parties.

Si la convention d'enquête n'a pas déterminé les langues à employer, il en est décidé par la Commission.

ARTICLE 12.

Sauf stipulation contraire, les Commissions d'enquête sont formées de la manière déterminée par les articles 45 et 57 de la présente Convention.

ARTICLE 13.

En cas de décès, de démission ou d'empêchement, pour quelque cause que ce soit, de l'un des Com-

unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.

ARTICLE 14.

The parties are entitled to appoint special agents to attend the Commission of Inquiry, whose duty it is to represent them and to act as intermediaries between them and the Commission.

They are further authorized to engage counsel or advocates, appointed by themselves, to state their case and uphold their interests before the Commission.

ARTICLE 15.

The International Bureau of the Permanent Court of Arbitration acts as registry for the Commissions which sit at The Hague, and shall place its offices and staff at the disposal of the Contracting Powers for the use of the Commission of Inquiry.

ARTICLE 16.

If the Commission meets elsewhere than at The Hague, it appoints a Secretary-General, whose office serves as registry.

It is the function of the registry, under the control of the President, to make the necessary arrangements for the sittings of the Commission, the preparation of the Minutes, and, while the inquiry lasts, for the charge of the archives, which shall subsequently be transferred to the International Bureau at The Hague.

ARTICLE 17.

In order to facilitate the constitution and working of Commissions of Inquiry, the Contracting Powers

missaires, ou éventuellement de l'un des assesseurs, il est pourvu à son remplacement selon le mode fixé pour sa nomination.

ARTICLE 14.

Les Parties ont le droit de nommer auprès de la Commission d'enquête des agents spéciaux avec la mission de Les représenter et de servir d'intermédiaires entre Elles et la Commission.

Elles sont, en outre, autorisées à charger des conseils ou avocats nommés par elles, d'exposer et de soutenir leurs intérêts devant la Commission.

ARTICLE 15.

Le Bureau international de la Cour permanente d'arbitrage sert de greffe aux Commissions qui siègent à La Haye, et mettra ses locaux et son organisation à la disposition des Puissances contractantes pour le fonctionnement de la Commission d'enquête.

ARTICLE 16.

Si la Commission siège ailleurs qu'à La Haye, elle nomme un Secrétaire-Général dont le bureau lui sert de greffe.

Le greffe est chargé, sous l'autorité du Président, de l'organisation matérielle des séances de la Commission, de la rédaction des procès-verbaux et, pendant le temps de l'enquête, de la garde des archives qui seront ensuite versées au Bureau international de La Haye.

ARTICLE 17.

En vue de faciliter l'institution et le fonctionnement des Commissions d'enquête, les Puissances

recommend the following rules, which shall be applicable to the inquiry procedure in so far as the parties do not adopt other rules.

ARTICLE 18.

The Commission shall settle the details of the procedure not covered by the special Inquiry Convention or the present Convention, and shall arrange all the formalities required for dealing with the evidence.

ARTICLE 19.

On the inquiry both sides must be heard.

At the dates fixed, each party communicates to the Commission and to the other party the statements of facts, if any, and, in all cases, the instruments, papers, and documents which it considers useful for ascertaining the truth, as well as the list of witnesses and experts whose evidence it wishes to be heard.

ARTICLE 20.

The Commission is entitled, with the assent of the Powers, to move temporarily to any place where it considers it may be useful to have recourse to this means of inquiry or to send one or more of its members. Permission must be obtained from the State on whose territory it is proposed to hold the inquiry.

ARTICLE 21.

Every investigation, and every examination of a locality, must be made in the presence of the agents and counsel of the parties or after they have been duly summoned.

contractantes recommandent les règles suivantes qui seront applicables à la procédure d'enquête en tant que les Parties n'adopteront pas d'autres règles.

ARTICLE 18.

La Commission règlera les détails de la procédure non prévus dans la convention spéciale d'enquête ou dans la présente Convention, et procèdera à toutes les formalités que comporte l'administration des preuves.

ARTICLE 19.

L'enquête a lieu contradictoirement.

Aux dates prévues, chaque Partie communique à la Commission et à l'autre Partie les exposés des faits, s'il y a lieu, et, dans tous les cas, les actes, pièces et documents qu'Elle juge utiles à la découverte de la vérité, ainsi que la liste des témoins et des experts qu'elle désire faire entendre.

ARTICLE 20.

La Commission a la faculté, avec l'assentiment des Parties, de se transporter momentanément sur les lieux où elle juge utile de recourir à ce moyen d'information, ou d'y déléguer un ou plusieurs de ses membres. L'autorisation de l'Etat sur le territoire duquel il doit être procédé à cette information devra être obtenue.

ARTICLE 21.

Toutes constatations matérielles, et toutes visites des lieux doivent être faites en présence des agents et conseils des Parties ou eux dûment appelés.

ARTICLE 22.

The Commission is entitled to ask from either party for such explanations and information as it considers necessary.

ARTICLE 23.

The parties undertake to supply the Commission of Inquiry, as fully as they may think possible, with all means and facilities necessary to enable it to become completely acquainted with, and to accurately understand, the facts in question.

They undertake to make use of the means at their disposal, under their municipal law, to insure the appearance of the witnesses or experts who are in their territory and have been summoned before the Commission.

If the witnesses or experts are unable to appear before the Commission, the parties will arrange for their evidence to be taken before the qualified officials of their own country.

ARTICLE 24.

For all notices to be served by the Commission in the territory of a third Contracting Power, the Commission shall apply direct to the Government of the said Power. The same rule applies in the case of steps being taken on the spot to procure evidence.

The requests for this purpose are to be executed so far as the means at the disposal of the Power applied to under its municipal law allow. They cannot be rejected unless the Power in question considers they are calculated to impair its sovereign rights or its safety.

The Commission will equally be always entitled to act through the Power on whose territory it sits.

ARTICLE 22.

La Commission a le droit de solliciter de l'une ou l'autre Partie telles explications ou informations qu'elle juge utiles.

ARTICLE 23.

Les Parties s'engagent à fournir à la Commission d'enquête, dans la plus large mesure qu'Elles jugeront possible, tous les moyens et toutes les facilités nécessaires pour la connaissance complète et l'appréciation exacte des faits en question.

Elles s'engagent à user des moyens dont Elles disposent d'après leur législation intérieure, pour assurer la comparution des témoins ou des experts se trouvant sur leur territoire et cités devant la Commission.

Si ceux-ci ne peuvent comparaître devant la Commission, Elles feront procéder à leur audition devant leurs autorités compétentes.

ARTICLE 24.

Pour toutes les notifications que la Commission aurait à faire sur le territoire d'une tierce Puissance contractante, la Commission s'adressera directement au Gouvernement de cette Puissance. Il en sera de même s'il s'agit de faire procéder sur place à l'établissement de tous moyens de preuve.

Les requêtes adressées à cet effet seront exécutées suivant les moyens dont la Puissance requise dispose d'après sa législation intérieure. Elles ne peuvent être refusées que si cette Puissance les juge de nature à porter atteinte à Sa souveraineté ou à Sa sécurité.

La Commission aura aussi toujours la faculté de recourir à l'intermédiaire de la Puissance sur le territoire de laquelle elle a son siège.

ARTICLE 25.

The witnesses and experts are summoned on the request of the parties or by the Commission of its own motion, and, in every case, through the Government of the State in whose territory they are.

The witnesses are heard in succession and separately, in the presence of the agents and counsel, and in the order fixed by the Commission.

ARTICLE 26.

The examination of witnesses is conducted by the President.

The members of the Commission may however put to each witness questions which they consider likely to throw light on and complete his evidence, or get information on any point concerning the witness within the limits of what is necessary in order to get at the truth.

The agents and counsel of the parties may not interrupt the witness when he is making his statement, nor put any direct question to him, but they may ask the President to put such additional questions to the witness as they think expedient.

ARTICLE 27.

The witness must give his evidence without being allowed to read any written draft. He may, however, be permitted by the President to consult notes or documents if the nature of the facts referred to necessitates their employment.

ARTICLE 28.

A minute of the evidence of the witness is drawn up forthwith and read to the witness. The latter

ARTICLE 25.

Les témoins et les experts sont appelés à la requête des Parties ou d'office par la Commission, et, dans tous les cas, par l'intermédiaire du Gouvernement de l'Etat sur le territoire duquel ils se trouvent.

Les témoins sont entendus, successivement et séparément, en présence des agents et des conseils et dans un ordre à fixer par la Commission.

ARTICLE 26.

L'interrogatoire des témoins est conduit par le Président.

Les membres de la Commission peuvent néanmoins poser à chaque témoin les questions qu'ils croient convenables pour éclaircir ou compléter sa déposition, ou pour se renseigner sur tout ce qui concerne le témoin dans les limites nécessaires à la manifestation de la vérité.

Les agents et les conseils des Parties ne peuvent interrompre le témoin dans sa déposition, ni lui faire aucune interpellation directe, mais peuvent demander au Président de poser au témoin telles questions complémentaires qu'ils jugent utiles.

ARTICLE 27.

Le témoin doit déposer sans qu'il lui soit permis de lire aucun projet écrit. Toutefois, il peut être autorisé par le Président à s'aider de notes ou documents si la nature des faits rapportés en nécessite l'emploi.

ARTICLE 28.

Procès-verbal de la déposition du témoin est dressé séance tenante et lecture en est donnée au

may make such alterations and additions as he thinks necessary, which will be recorded at the end of his statement.

When the whole of his statement has been read to the witness, he is asked to sign it.

ARTICLE 29.

The agents are authorized, in the course of or at the close of the inquiry, to present in writing to the Commission and to the other party such statements, requisitions, or summaries of the facts as they consider useful for ascertaining the truth.

ARTICLE 30.

The Commission considers its decisions in private and the proceedings are secret.

All questions are decided by a majority of the members of the Commission.

If a member declines to vote, the fact must be recorded in the minutes.

ARTICLE 31.

The sittings of the Commission are not public, nor the minutes and documents connected with the inquiry published except in virtue of a decision of the Commission taken with the consent of the parties.

ARTICLE 32.

After the parties have presented all the explanations and evidence, and the witnesses have all been heard, the President declares the inquiry terminated, and the Commission adjourns to deliberate and to draw up its Report.

témoin. Le témoin peut y faire tels changements et additions que bon lui semble et qui seront consignés à la suite de sa déposition.

Lecture faite au témoin de l'ensemble de sa déposition, le témoin est requis de signer.

ARTICLE 29.

Les agents sont autorisés, au cours ou à la fin de l'enquête, à présenter par écrit à la Commission et à l'autre Partie tels dires, réquisitions ou résumés de fait, qu'ils jugent utiles à la découverte de la vérité.

ARTICLE 30.

Les délibérations de la Commission ont lieu à huis clos et restent secrètes.

Toute décision est prise à la majorité des membres de la Commission.

Le refus d'un membre de prendre part au vote doit être constaté dans le procès-verbal.

ARTICLE 31.

Les séances de la Commission ne sont publiques et les procès-verbaux et documents de l'enquête ne sont rendus publics qu'en vertu d'une décision de la Commission, prise avec l'assentiment des Parties.

ARTICLE 32.

Les Parties ayant présenté tous les éclaircissements et preuves, tous les témoins ayant été entendus, le Président prononce la clôture de l'enquête et la Commission s'ajourne pour délibérer et rédiger son rapport.

ARTICLE 33.

The Report is signed by all the members of the Commission.

If one of the members refuses to sign, the fact is mentioned; but the validity of the Report is not affected.

ARTICLE 34.

The Report of the Commission is read at a public sitting, the agents and counsel of the parties being present or duly summoned.

A copy of the Report is given to each party.

ARTICLE 35.

The Report of the Commission is limited to a statement of facts, and has in no way the character of an Award. It leaves to the parties entire freedom as to the effect to be given to the statement.

ARTICLE 36.

Each party pays its own expenses and an equal share of the expenses incurred by the Commission.

PART IV.—*International Arbitration.*

CHAPTER I.—*The System of Arbitration.*

ARTICLE 37.

International arbitration has for its object the settlement of disputes between States by Judges of their own choice and on the basis of respect for law.

Recourse to arbitration implies an engagement to submit in good faith to the Award.

ARTICLE 33.

Le rapport est signé par tous les membres de la Commission.

Si un des membres refuse de signer, mention en est faite; le rapport reste néanmoins valable.

ARTICLE 34.

Le rapport de la Commission est lu en séance publique, les agents et conseils des Parties présents ou dûment appelés.

Un exemplaire du rapport est remis à chaque Partie.

ARTICLE 35.

Le rapport de la Commission, limité à la constatation des faits, n'a nullement le caractère d'une sentence arbitrale. Il laisse aux Parties une entière liberté pour la suite à donner à cette constatation.

ARTICLE 36.

Chaque Partie supporte ses propres frais et une part égale des frais de la Commission.

TITRE IV.—*De l'arbitrage international.*

CHAPITRE I.—*De la Justice arbitrale.*

ARTICLE 37.

L'arbitrage international a pour objet le règlement de litiges entre les Etats par des juges de leur choix et sur la base du respect du droit.

Le recours à l'arbitrage implique l'engagement de se soumettre de bonne foi à la sentence.

ARTICLE 38.

In questions of a legal nature, and especially in the interpretation or application of International Conventions, arbitration is recognized by the Contracting Powers as the most effective, and, at the same time, the most equitable means of settling disputes which diplomacy has failed to settle.

Consequently, it would be desirable that, in disputes about the above-mentioned questions, the Contracting Powers should, if the case arose, have recourse to arbitration, in so far as circumstances permit.

ARTICLE 39.

The Arbitration Convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute or only disputes of a certain category.

ARTICLE 40.

Independently of general or private Treaties expressly stipulating recourse to arbitration as obligatory on the Contracting Powers, the said Powers reserve to themselves the right of concluding new Agreements, general or particular, with a view to extending compulsory arbitration to all cases which they may consider it possible to submit to it.

CHAPTER II.—*The Permanent Court of Arbitration.*

ARTICLE 41.

With the object of facilitating an immediate recourse to arbitration for international differences,

ARTICLE 38.

Dans les questions d'ordre juridique, et en premier lieu, dans les questions d'interprétation ou d'application des Conventions internationales, l'arbitrage est reconnu par les Puissances contractantes comme le moyen le plus efficace et en même temps le plus équitable de régler les litiges qui n'ont pas été résolus par les voies diplomatiques.

En conséquence, il serait désirable que, dans les litiges sur les questionssusmentionnées, les Puissances contractantes eussent, le cas échéant, recours à l'arbitrage, en tant que les circonstances le permettraient.

ARTICLE 39.

La convention d'arbitrage est conclue pour des contestations déjà nées ou pour des contestations éventuelles.

Elle peut concerner tout litige ou seulement les litiges d'une catégorie déterminée.

ARTICLE 40.

Indépendamment des Traités généraux ou particuliers qui stipulent actuellement l'obligation du recours à l'arbitrage pour les Puissances contractantes, ces Puissances se réservent de conclure des accords nouveaux, généraux ou particuliers, en vue d'étendre l'arbitrage obligatoire à tous les cas qu'Elles jugeront possible de lui soumettre.

CHAPITRE II.—*De la Cour permanente d'arbitrage.*

ARTICLE 41.

Dans le but de faciliter le recours immédiat à l'arbitrage pour les différends internationaux qui

which it has not been possible to settle by diplomacy, the Contracting Powers undertake to maintain the Permanent Court of Arbitration, as established by the First Peace Conference, accessible at all times, and operating, unless otherwise stipulated by the parties, in accordance with the rules of procedure inserted in the present Convention.

ARTICLE 42.

The Permanent Court is competent for all arbitration cases, unless the parties agree to institute a special Tribunal.

ARTICLE 43.

The Permanent Court sits at The Hague.

An International Bureau serves as registry for the Court. It is the channel for communications relative to the meetings of the Court; it has charge of the archives and conducts all the administrative business.

The Contracting Powers undertake to communicate to the Bureau, as soon as possible, a certified copy of the conditions of arbitration arrived at between them and of any Award concerning them delivered by a special Tribunal.

They likewise undertake to communicate to the Bureau the laws, regulations, and documents eventually showing the execution of the Awards given by the Court.

ARTICLE 44.

Each Contracting Power selects four persons at the most, of known competency in questions of international law, of the highest moral reputation, and disposed to accept the duties of Arbitrator.

n'ont pu être réglés par la voie diplomatique, les Puissances contractantes s'engagent à maintenir, telle qu'elle a été établie par la Première Conférence de la Paix, la Cour permanente d'arbitrage, accessible en tout temps et fonctionnant, sauf stipulation contraire des Parties, conformément aux règles de procédure insérées dans la présente Convention.

ARTICLE 42.

La Cour permanente est compétente pour tous les cas d'arbitrage, à moins qu'il n'y ait entente entre les Parties pour l'établissement d'une juridiction spéciale.

ARTICLE 43.

La Cour permanente a son siège à La Haye.

Un Bureau International sert de greffe à la Cour; il est l'intermédiaire des communications relatives aux réunions de celle-ci; il a la garde des archives et la gestion de toutes les affaires administratives.

Les Puissances signataires s'engagent à communiquer au Bureau, aussitôt que possible, une copie certifiée conforme de toute stipulation d'arbitrage intervenue entre Elles et de toute sentence arbitrale les concernant et rendue par des juridictions spéciales.

Elles s'engagent à communiquer de même au Bureau les lois, règlements et documents constatant éventuellement l'exécution des sentences rendues par la Cour.

ARTICLE 44.

Chaque Puissance contractante désigne quatre personnes au plus, d'une compétence reconnue dans les questions de droit international, jouissant de la plus haute considération morale et disposées à accepter les fonctions d'arbitre.

The persons thus selected are inscribed, as members of the Court, in a list which shall be notified to all the Contracting Powers by the Bureau.

Any alteration in the list of Arbitrators is brought by the Bureau to the knowledge of the Contracting Powers.

Two or more Powers may agree on the selection in common of one or more members.

The same person can be selected by different Powers.

The members of the Court are appointed for a term of six years. These appointments are renewable.

Should a member of the Court die or resign, the same procedure is followed for filling the vacancy as was followed for appointing him. In this case the appointment is made for a fresh period of six years.

ARTICLE 45.

When the Contracting Powers wish to have recourse to the Permanent Court for the settlement of a difference which has arisen between them, the Arbitrators called upon to form the Tribunal with jurisdiction to decide this difference must be chosen from the general list of members of the Court.

Failing the direct agreement of the parties on the composition of the Arbitration Tribunal, the following course shall be pursued:

Each party appoints two Arbitrators, of whom one only can be its national or chosen from among the persons selected by it as members of the Permanent Court. These Arbitrators together choose an Umpire.

Les personnes ainsi désignées sont inscrites, au titre de Membres de la Cour, sur une liste qui sera notifiée à toutes les Puissances contractantes par les soins du Bureau.

Toute modification à la liste des arbitres est portée, par les soins du Bureau, à la connaissance des Puissances contractantes.

Deux ou plusieurs Puissances peuvent s'entendre pour la désignation en commun d'un ou de plusieurs Membres.

La même personne peut être désignée par des Puissances différentes.

Les Membres de la Cour sont nommés pour un terme de six ans. Leur mandat peut être renouvelé.

En cas de décès ou de retraite d'un Membre de la Cour, il est pourvu à son remplacement selon le mode fixé pour sa nomination, et pour une nouvelle période de six ans.

ARTICLE 45.

Lorsque les Puissances contractantes veulent s'adresser à la Cour permanente pour le règlement d'un différend survenu entre Elles, le choix des arbitres appelés à former le Tribunal compétent pour statuer sur ce différend, doit être fait dans la liste générale des Membres de la Cour.

A défaut de constitution du Tribunal arbitral par l'accord des Parties, il est procédé de la manière suivante:

Chaque Partie nomme deux arbitres, dont un seulement peut être son national ou choisi parmi ceux qui ont été désignés par Elle comme Membres de la Cour permanente. Ces arbitres choisissent ensemble un surarbitre.

If the votes are equally divided, the choice of the Umpire is intrusted to a third Power, selected by the parties by common accord.

If an agreement is not arrived at on this subject each party selects a different Power, and the choice of the Umpire is made in concert by the Powers thus selected.

If, within two months' time, these two Powers cannot come to an agreement, each of them presents two candidates taken from the list of members of the Permanent Court, exclusive of the members selected by the parties and not being nationals of either of them. Drawing lots determines which of the candidates thus presented shall be Umpire.

ARTICLE 46.

The Tribunal being thus composed, the parties notify to the Bureau their determination to have recourse to the Court, the text of their "Compromis,"[a] and the names of the Arbitrators.

The Bureau communicates without delay to each Arbitrator the "Compromis," and the names of the other members of the Tribunal.

The Tribunal assembles at the date fixed by the parties. The Bureau makes the necessary arrangements for the meeting.

The members of the Tribunal, in the exercise of their duties and out of their own country, enjoy diplomatic privileges and immunities.

ARTICLE 47.

The Bureau is authorized to place its offices and staff at the disposal of the Contracting Powers

En cas de partage des voix, le choix du surarbitre est confié à une Puissance tierce, désignée de commun accord par les Parties.

Si l'accord ne s'établit pas à ce sujet, chaque Partie désigne une Puissance différente et le choix du surarbitre est fait de concert par les Puissances ainsi désignées.

Si, dans un délai de deux mois, ces deux Puissances n'ont pu tomber d'accord, chacune d'Elles présente deux candidats pris sur la liste des Membres de la Cour permanente, en dehors des Membres désignés par les Parties et n'étant les nationaux d'aucune d'Elles. Le sort détermine lequel des candidats ainsi présentés sera le surarbitre.

ARTICLE 46.

Dès que le Tribunal est composé, les Parties notifient au Bureau leur décision de s'adresser à la Cour, le texte de leur compromis, et les noms des arbitres.

Le Bureau communique sans délai à chaque arbitre le compromis et les noms des autres Membres du Tribunal.

Le Tribunal se réunit à la date fixée par les Parties. Le Bureau pourvoit à son installation.

Les Membres du Tribunal, dans l'exercice de leur fonctions et en dehors de leur pays, jouissent des privilèges et immunités diplomatiques.

ARTICLE 47.

Le Bureau est autorisé à mettre ses locaux et son organisation à la disposition des Puissances con-

[a] The preliminary Agreement in an international arbitration defining the point at issue and arranging the procedure to be followed.

for the use of any special Board of Arbitration.

The jurisdiction of the Permanent Court may, within the conditions laid down in the regulations, be extended to disputes between non-Contracting Powers or between Contracting Powers and non-Contracting Powers, if the parties are agreed on recourse to this Tribunal.

ARTICLE 48.

The Contracting Powers consider it their duty, if a serious dispute threatens to break out between two or more of them, to remind these latter that the Permanent Court is open to them.

Consequently, they declare that the fact of reminding the parties at variance of the provisions of the present Convention, and the advice given to them, in the highest interests of peace, to have recourse to the Permanent Court, can only be regarded as friendly actions.

In case of dispute between two Powers, one of them can always address to the International Bureau a note containing a declaration that it would be ready to submit the dispute to arbitration.

The Bureau must at once inform the other Power of the declaration.

ARTICLE 49.

The Permanent Administrative Council, composed of the Diplomatic Representatives of the Contracting Powers accredited to The Hague and of the Netherlands Min-

tractantes pour le fonctionnement de toute juridiction spéciale d'arbitrage.

La juridiction de la Cour permanente peut être étendue, dans les conditions prescrites par les règlements, aux litiges existant entre des Puissances non contractantes ou entre des Puissances contractantes et des Puissances non contractantes, si les Parties sont convenues de recourir à cette juridiction.

ARTICLE 48.

Les Puissances contractantes considèrent comme un devoir, dans le cas où un conflit aigu menacerait d'éclater entre deux ou plusieurs d'entre Elles, de rappeler à celles-ci que la Cour permanente leur est ouverte.

En conséquence, Elles déclarent que le fait de rappeler aux Parties en conflit les dispositions de la présente Convention, et le conseil donné, dans l'intérêt supérieur de la paix, de s'adresser à la Cour permanente, ne peuvent être considérés que comme actes de bons offices.

En cas de conflit entre deux Puissances, l'une d'Elles pourra toujours adresser au Bureau International une note contenant sa déclaration qu'Elle serait disposée à soumettre le différend à un arbitrage.

Le Bureau devra porter aussitôt la déclaration à la connaissance de l'autre Puissance.

ARTICLE 49.

Le Conseil administratif permanent, composé des Représentants diplomatiques des Puissances contractantes accrédités à La Haye et du Ministre des Af-

ister for Foreign Affairs, who will act as President, is charged with the direction and control of the International Bureau.

The Council settles its rules of procedure and all other necessary regulations.

It decides all questions of administration which may arise with regard to the operations of the Court.

It has entire control over the appointment, suspension, or dismissal of the officials and employés of the Bureau

It fixes the payments and salaries, and controls the general expenditure.

At meetings duly summoned the presence of nine members is sufficient to render valid the discussions of the Council. The decisions are taken by a majority of votes.

The Council communicates to the Contracting Powers without delay the regulations adopted by it. It furnishes them with an annual Report on the labors of the Court, the working of the administration, and the expenditure. The Report likewise contains a résumé of what is important in the documents communicated to the Bureau by the Powers in virtue of Article 43, paragraphs 3 and 4.

ARTICLE 50.

The expenses of the Bureau shall be borne by the Contracting Powers in the proportion fixed for the International Bureau of the Universal Postal Union.

The expenses to be charged to the adhering Powers shall be reckoned from the date on which their adhesion comes into force.

faires Etrangères des Pays-Bas, qui remplit les fonctions de Président, a la direction et le contrôle du Bureau International.

Le Conseil arrête son règlement d'ordre ainsi que tous autres règlements nécessaires.

Il décide toutes les questions administratives qui pourraient surgir touchant le fonctionnement de la Cour.

Il a tout pouvoir quant à la nomination, la suspension ou la révocation des fonctionnaires et employés du Bureau.

Il fixe les traitements et salaires, et contrôle la dépense générale.

La présence de neuf membres dans les réunions dûment convoquées suffit pour permettre au Conseil de délibérer valablement. Les décisions sont prises à la majorité des voix.

Le Conseil communique sans délai aux Puissances contractantes les règlements adoptés par lui. Il Leur présente chaque année un rapport sur les travaux de la Cour, sur le fonctionnement des services administratifs et sur les dépenses. Le rapport contient également un résumé du contenu essentiel des documents communiqués au Bureau par les Puissances en vertu de l'article 43 alinéas 3 et 4.

ARTICLE 50.

Les frais du Bureau seront supportés par les Puissances contractantes dans la proportion établie pour le Bureau international de l'Union postale universelle.

Les frais à la charge des Puissances adhérentes seront comptés à partir du jour où leur adhésion produit ses effets.

Chapter III.—*Arbitration Procedure.*

Article 51.

With a view to encouraging the development of arbitration, the Contracting Powers have agreed on the following rules, which are applicable to arbitration procedure, unless other rules have been agreed on by the parties.

Article 52.

The Powers which have recourse to arbitration sign a "Compromis," in which the subject of the dispute is clearly defined, the time allowed for appointing Arbitrators, the form, order, and time in which the communication referred to in Article 63 must be made, and the amount of the sum which each party must deposit in advance to defray the expenses.

The "Compromis" likewise defines, if there is occasion, the manner of appointing Arbitrators, any special powers which may eventually belong to the Tribunal, where it shall meet, the language it shall use, and the languages the employment of which shall be authorized before it, and, generally speaking, all the conditions on which the parties are agreed.

Article 53.[a]

The Permanent Court is competent to settle the "Compromis," if the parties are agreed to have recourse to it for the purpose.

It is similarly competent, even if the request is only made by one of the parties, when all attempts to reach an understanding through the diplomatic channel have failed, in the case of:—

Chapitre III.—*De la Procédure arbitrale.*

Article 51.

En vue de favoriser le développement de l'arbitrage, les Puissances contractantes ont arrêté les règles suivantes qui sont applicables à la procédure arbitrale, en tant que les Parties ne sont pas convenues d'autres règles.

Article 52.

Les Puissances qui recourent à l'arbitrage signent un compromis dans lequel sont déterminés l'objet du litige, le délai de nomination des arbitres, la forme, l'ordre et les délais dans lesquels la communication visée par l'article 63 devra être faite, et le montant de la somme que chaque Partie aura à déposer à titre d'avance pour les frais.

Le compromis détermine également, s'il y a lieu, le mode de nomination des arbitres, tous pouvoirs spéciaux éventuels du Tribunal, son siège, la langue dont il fera usage et celles dont l'emploi sera autorisé devant lui, et généralement toutes les conditions dont les Parties sont convenues.

Article 53.

La Cour permanente est compétente pour l'établissement du compromis, si les Parties sont d'accord pour s'en remettre à elle.

Elle est également compétente, même si la demande est faite seulement par l'une des Parties, après qu'un accord par la voie diplomatique a été vainement essayé, quand il s'agit:

[a] Affected by Resolution of Ratification, last paragraph, page 165, which see.

1. A dispute covered by a general Treaty of Arbitration concluded or renewed after the present Convention has come into force, and providing for a "Compromis" in all disputes and not either explicitly or implicitly excluding the settlement of the "Compromis" from the competence of the Court. Recourse cannot, however, be had to the Court if the other party declares that in its opinion the dispute does not belong to the category of disputes which can be submitted to compulsory arbitration, unless the Treaty of Arbitration confers upon the Arbitration Tribunal the power of deciding this preliminary question.

2. A dispute arising from contract debts claimed from one Power by another Power as due to its nationals, and for the settlement of which the offer of arbitration has been accepted. This arrangement is not applicable if acceptance is subject to the condition that the "Compromis" should be settled in some other way.

ARTICLE 54.

In the cases contemplated in the preceding Article, the "Compromis" shall be settled by a Commission consisting of five members selected in the manner arranged for in Article 45, paragraphs 3 to 6.

The fifth member is President of the Commission *ex officio*.

ARTICLE 55.

The duties of Arbitrator may be conferred on one Arbitrator alone or on several Arbitrators selected by the parties as they please, or chosen by them from the members

1°. d'un différend rentrant dans un Traité d'arbitrage général conclu ou renouvelé après la mise en vigueur de cette Convention et qui prévoit pour chaque différend un compromis et n'exclut pour l'établissement de ce dernier ni explicitement ni implicitement la compétence de la Cour. Toutefois, le recours à la Cour n'a pas lieu si l'autre Partie déclare qu'à son avis le différend n'appartient pas à la catégorie des différends à soumettre à un arbitrage obligatoire, à moins que la Traité d'arbitrage ne confère au Tribunal arbitral le pouvoir de décider cette question préalable;

2°. d'un différend provenant de dettes contractuelles réclamées à une Puissance par une autre Puissance comme dues à ses nationaux, et pour la solution duquel l'offre d'arbitrage a été acceptée. Cette disposition n'est pas applicable si l'acceptation a été subordonnée à la condition que le compromis soit établi selon un autre mode.

ARTICLE 54.

Dans les cas prévus par l'article précédent, le compromis sera établi par une commission composée de cinq membres désignés de la manière prévue à l'article 45, alinéas 3 à 6.

Le cinquième membre est de droit Président de la commission.

ARTICLE 55.

Les fonctions arbitrales peuvent être conférées à un arbitre unique ou à plusieurs arbitres désignés par les Parties à leur gré, ou choisis par Elles parmi les Membres de la Cour

of the Permanent Court of Arbitration established by the present Convention.

Failing the constitution of the Tribunal by direct agreement between the parties, the course referred to in Article 45, paragraphs 3 to 6, is followed.

ARTICLE 56.

When a Sovereign or the Chief of a State is chosen as Arbitrator, the arbitration procedure is settled by him.

ARTICLE 57.

The Umpire is President of the Tribunal *ex officio*.

When the Tribunal does not include an Umpire, it appoints its own President.

ARTICLE 58.

When the "Compromis" is settled by a Commission, as contemplated in Article 54, and in the absence of an agreement to the contrary, the Commission itself shall form the Arbitration Tribunal.

ARTICLE 59.

Should one of the Arbitrators either die, retire, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.

ARTICLE 60.

The Tribunal sits at The Hague, unless some other place is selected by the parties.

The Tribunal can only sit in the territory of a third Power with the latter's consent.

permanente d'arbitrage établie par la présente Convention.

A défaut de constitution du Tribunal par l'accord des Parties, il est procédé de la manière indiquée à l'article 45, alineas 3 à 6.

ARTICLE 56.

Lorsqu'un Souverain ou un Chef d'Etat est choisi pour arbitre, la procédure arbitrale est réglée par Lui.

ARTICLE 57.

Le surarbitre est de droit Président du Tribunal.

Lorsque le Tribunal ne comprend pas de surarbitre, il nomme lui-même son Président.

ARTICLE 58.

En cas d'établissement du compromis par une commission, telle qu'elle est visée à l'article 54, et sauf stipulation contraire, la commission elle même formera le Tribunal d'arbitrage.

ARTICLE 59.

En cas de décès, de démission ou d'empêchement, pour quelque cause que ce soit, de l'un des arbitres, il est pourvu à son remplacement selon le mode fixé pour sa nomination.

ARTICLE 60.

A défaut de désignation par les Parties, le Tribunal siège à La Haye.

Le Tribunal ne peut siéger sur le territoire d'une tierce Puissance qu'avec l'assentiment de celle-ci.

The place of meeting once fixed cannot be altered by the Tribunal, except with the consent of the parties.

ARTICLE 61.

If the question as to what languages are to be used has not been settled by the "Compromis," it shall be decided by the Tribunal.

ARTICLE 62.

The parties are entitled to appoint special agents to attend the Tribunal to act as intermediaries between themselves and the Tribunal.

They are further authorized to retain for the defence of their rights and interests before the Tribunal counsel or advocates appointed by themselves for this purpose.

The members of the Permanent Court may not act as agents, counsel, or advocates except on behalf of the Power which appointed them members of the Court.

ARTICLE 63.

As a general rule, arbitration procedure comprises two distinct phases: pleadings and oral discussions.

The pleadings consist in the communication by the respective agents to the members of the Tribunal and the opposite party of cases, counter-cases, and, if necessary, of replies; the parties annex thereto all papers and documents called for in the case. This communication shall be made either directly or through the intermediary of the International Bureau, in the order and within the time fixed by the "Compromis."

Le siège une fois fixé ne peut être changé par le Tribunal qu'avec l'assentiment des Parties.

ARTICLE 61.

Si le compromis n'a pas déterminé les langues à employer, il en est décidé par le Tribunal.

ARTICLE 62.

Les Parties ont le droit de nommer auprès du Tribunal des agents spéciaux, avec la mission de servir d'intermédiaires entre Elles et le Tribunal.

Elles sont en outre autorisées à charger de la défense de leurs droits et intérêts devant le Tribunal, des conseils ou avocats nommés par Elles à cet effet.

Les Membres de la Cour permanente ne peuvent exercer les fonctions d'agents, conseils ou avocats, qu'en faveur de la Puissance qui les a nommés Membres de la Cour.

ARTICLE 63.

La procédure arbitrale comprend en règle générale deux phases distinctes: l'instruction écrite et les débats.

L'instruction écrite consiste dans la communication faite par les agents respectifs, aux membres du Tribunal et à la Partie adverse, des mémoires, des contre-mémoires et, au besoin, des répliques; les Parties y joignent toutes pièces et documents invoqués dans la cause. Cette communication aura lieu, directement ou par l'intermédiaire du Bureau international, dans l'ordre et dans les délais déterminés par le compromis.

The time fixed by the "Compromis" may be extended by mutual agreement by the parties, or by the Tribunal when the latter considers it necessary for the purpose of reaching a just decision.

The discussions consist in the oral development before the Tribunal of the arguments of the parties.

ARTICLE 64.

A certified copy of every document produced by one party must be communicated to the other party.

ARTICLE 65.

Unless special circumstances arise, the Tribunal does not meet until the pleadings are closed.

ARTICLE 66.

The discussions are under the control of the President.

They are only public if it be so decided by the Tribunal, with the assent of the parties.

They are recorded in minutes drawn up by the Secretaries appointed by the President. These minutes are signed by the President and by one of the Secretaries and alone have an authentic character.

ARTICLE 67.

After the close of the pleadings, the Tribunal is entitled to refuse discussion of all new papers or documents which one of the parties may wish to submit to it without the consent of the other party.

ARTICLE 68.

The Tribunal is free to take into consideration new papers or documents to which its attention may

Les délais fixés par le compromis pourront être prolongés de commun accord par les Parties, ou par le Tribunal quand il le juge nécessaire pour arriver à une décision juste.

Les débats consistent dans le développement oral des moyens des Parties devant le Tribunal.

ARTICLE 64.

Toute pièce produite par l'une des Parties doit être communiquée, en copie certifiée conforme, à l'autre Partie.

ARTICLE 65.

A moins de circonstances spéciales, le Tribunal ne se réunit qu'après la clôture de l'instruction.

ARTICLE 66.

Les débats sont dirigés par le Président.

Ils ne sont publics qu'en vertu d'une décision du Tribunal, prise avec l'assentiment des Parties.

Ils sont consignés dans des procès-verbaux rédigés par des secrétaires que nomme le Président. Ces procès-verbaux sont signés par le Président et par un des secrétaires; ils ont seuls caractère authentique.

ARTICLE 67.

L'instruction étant close, le Tribunal a le droit d'écarter du débat tous actes ou documents nouveaux qu'une des Parties voudrait lui soumettre sans le consentement de l'autre.

ARTICLE 68.

Le Tribunal demeure libre de prendre en considération les actes ou documents nouveaux sur les-

be drawn by the agents or counsel of the parties.

In this case, the Tribunal has the right to require the production of these papers or documents, but is obliged to make them known to the opposite party.

ARTICLE 69.

The Tribunal can, besides, require from the agents of the parties the production of all papers, and can demand all necessary explanations. In case of refusal the Tribunal takes note of it.

ARTICLE 70.

The agents and the counsel of the parties are authorized to present orally to the Tribunal all the arguments they may consider expedient in defence of their case.

ARTICLE 71.

They are entitled to raise objections and points. The decisions of the Tribunal on these points are final and cannot form the subject of any subsequent discussion.

ARTICLE 72.

The members of the Tribunal are entitled to put questions to the agents and counsel of the parties, and to ask them for explanations on doubtful points.

Neither the questions put, nor the remarks made by members of the Tribunal in the course of the discussions, can be regarded as an expression of opinion by the Tribunal in general or by its members in particular.

ARTICLE 73.

The Tribunal is authorized to declare its competence in inter-

quels les agents ou conseils des Parties appelleraient son attention.

En ce cas, le Tribunal a le droit de requérir la production de ces actes ou documents, sauf l'obligation d'en donner connaissance à la Partie adverse.

ARTICLE 69.

Le Tribunal peut, en outre, requérir des agents des Parties la production de tous actes et demander toutes explications nécessaires. En cas de refus, le Tribunal en prend acte.

ARTICLE 70.

Les agents et les conseils des Parties sont autorisés à présenter oralement au Tribunal tous les moyens qu'ils jugent utiles à la défense de leur cause.

ARTICLE 71.

Ils ont le droit de soulever des exceptions et des incidents. Les décisions du Tribunal sur ces points sont définitives et ne peuvent donner lieu à aucune discussion ultérieure.

ARTICLE 72.

Les membres du Tribunal ont le droit de poser des questions aux agents et aux conseils des Parties et de leur demander des éclaircissements sur les points douteux.

Ni les questions posées, ni les observations faites par les membres du Tribunal pendant le cours des débats ne peuvent être regardées comme l'expression des opinions du Tribunal en général ou de ses membres en particulier.

ARTICLE 73.

Le Tribunal est autorisé à déterminer sa compétence en inter-

preting the "Compromis," as well as other acts and documents which may be invoked, and in applying the principles of law.

ARTICLE 74.

The Tribunal is entitled to issue rules of procedure for the conduct of the case, to decide the forms, order, and time in which each party must conclude its arguments and to arrange all the formalities required for dealing with the evidence.

ARTICLE 75.

The parties undertake to supply the Tribunal, as fully as they consider possible, with all the information required for deciding the case.

ARTICLE 76.

For all notices which the Tribunal has to serve in the territory of a third Contracting Power, the Tribunal shall apply direct to the Government of that Power. The same rule applies in the case of steps being taken to procure evidence on the spot.

The requests for this purpose are to be executed as far as the means at the disposal of the Power applied to under its municipal law allow. They cannot be rejected unless the Power in question considers them calculated to impair its own sovereign rights or its safety.

The Court will equally be always entitled to act through the Power on whose territory it sits.

prétant le compromis ainsi que les autres actes et documents qui peuvent être invoqués dans la matière, et en appliquant les principes du droit.

ARTICLE 74.

Le Tribunal a le droit de rendre des ordonnances de procédure pour la direction du procès, de déterminer les formes, l'ordre et les délais dans lesquels chaque Partie devra prendre ses conclusions finales, et de procéder à toutes les formalités que comporte l'administration des preuves.

ARTICLE 75.

Les Parties s'engagent à fournir au Tribunal, dans la plus large mesure qu'Elles jugeront possible, tous les moyens nécessaires pour la décision du litige.

ARTICLE 76.

Pour toutes les notifications que le Tribunal aurait à faire sur le territoire d'une tierce Puissance contractante, le Tribunal s'adressera directement au Gouvernement de cette Puissance. Il en sera de même s'il s'agit de faire procéder sur place à l'établissement de tous moyens de preuve.

Les requêtes adressées à cet effet seront exécutées suivant les moyens dont la Puissance requise dispose d'après sa législation intérieure. Elles ne peuvent être refusées que si cette Puissance les juge de nature à porter atteinte à sa souveraineté ou à sa sécurité.

Le Tribunal aura aussi toujours la faculté de recourir à l'intermédiaire de la Puissance sur le territoire de laquelle il a son siège.

ARTICLE 77.

When the agents and counsel of the parties have submitted all the explanations and evidence in support of their case the President shall declare the discussion closed.

ARTICLE 78.

The Tribunal considers its decisions in private and the proceedings remain secret.

All questions are decided by a majority of the members of the Tribunal.

ARTICLE 79.

The Award must give the reasons on which it is based. It contains the names of the Arbitrators; it is signed by the President and Registrar or by the Secretary acting as Registrar.

ARTICLE 80.

The Award is read out in public sitting, the agents and counsel of the parties being present or duly summoned to attend.

ARTICLE 81.

The Award, duly pronounced and notified to the agents of the parties, settles the dispute definitely and without appeal.

ARTICLE 82.

Any dispute arising between the parties as to the interpretation and execution of the Award shall, in the absence of an Agreement to the contrary, be submitted to the Tribunal which pronounced it.

ARTICLE 83.

The parties can reserve in the "Compromis" the right to demand the revision of the Award.

ARTICLE 77.

Les agents et les conseils des Parties ayant présenté tous les éclaircissements et preuves à l'appui de leur cause, le Président prononce la clôture des débats.

ARTICLE 78.

Les délibérations du Tribunal ont lieu à huis clos et restent secrètes.

Toute décision est prise à la majorité de ses membres.

ARTICLE 79.

La sentence arbitrale est motivée. Elle mentionne les noms des arbitres; elle est signée par le Président et par le greffier ou le secrétaire faisant fonctions de greffier.

ARTICLE 80.

La sentence est lue en séance publique, les agents et les conseils des Parties présents ou dûment appelés.

ARTICLE 81.

La sentence, dûment prononcée et notifiée aux agents des Parties, décide définitivement et sans appel la contestation.

ARTICLE 82.

Tout différend qui pourrait surgir entre les Parties, concernant l'interprétation et l'exécution de la sentence, sera, sauf stipulation contraire, soumis au jugement du Tribunal qui l'a rendue.

ARTICLE 83.

Les Parties peuvent se réserver dans le compromis de demander la révision de la sentence arbitrale.

In this case and unless there be an Agreement to the contrary, the demand must be addressed to the Tribunal which pronounced the Award. It can only be made on the ground of the discovery of some new fact calculated to exercise a decisive influence upon the Award and which was unknown to the Tribunal and to the party which demanded the revision at the time the discussion was closed.

Proceedings for revision can only be instituted by a decision of the Tribunal expressly recording the existence of the new fact, recognizing in it the character described in the preceding paragraph, and declaring the demand admissible on this ground.

The "Compromis" fixes the period within which the demand for revision must be made.

Dans ce cas, et sauf stipulation contraire, la demande doit être adressée au Tribunal qui a rendu la sentence. Elle ne peut être motivée que par la découverte d'un fait nouveau qui eût été de nature à exercer une influence décisive sur la sentence et qui, lors de la clôture des débats, était inconnu du Tribunal lui-même et de la Partie qui a demandé la révision.

La procédure de révision ne peut être ouverte que par une décision du Tribunal constatant expressément l'existence du fait nouveau, lui reconnaissant les caractères prévus par le paragraphe précédent et déclarant à ce titre la demande recevable.

Le compromis détermine le délai dans lequel la demande de révision doit être formée.

ARTICLE 84.

The Award is not binding except on the parties in dispute.

When it concerns the interpretation of a Convention to which Powers other than those in dispute are parties, the litigants shall inform all the Signatory Powers in good time. Each of these Powers is entitled to intervene in the case. If one or more avail themselves of this right, the interpretation contained in the Award is equally binding on them.

ARTICLE 84.

La sentence arbitrale n'est obligatoire que pour les Parties en litige.

Lorsqu'il s'agit de l'interprétation d'une Convention à laquelle ont participé d'autres Puissances que les Parties en litige, celles-ci avertissent en temps utile toutes les Puissances signataires. Chacune de ces Puissances a le droit d'intervenir au procès. Si une ou plusieurs d'entre Elles ont profité de cette faculté, l'interprétation contenue dans la sentence est également obligatoire à leur égard.

ARTICLE 85.

Each party pays its own expenses and an equal share of the expenses of the Tribunal.

ARTICLE 85.

Chaque Partie supporte ses propres frais et une part égale des frais du Tribunal.

CHAPTER IV.—*Arbitration by Summary Procedure.*

ARTICLE 86.

With a view to facilitating the working of the system of arbitration in disputes admitting of a summary procedure, the Contracting Powers adopt the following rules, which shall be observed in the absence of other arrangements and subject to the reservation that the provisions of Chapter III apply so far as may be.

ARTICLE 87.

Each of the parties in dispute appoints an Arbitrator. The two Arbitrators thus selected choose an Umpire. If they do not agree on this point, each of them proposes two candidates taken from the general list of the members of the Permanent Court exclusive of the members appointed by either of the parties and not being nationals of either of them; which of the candidates thus proposed shall be the Umpire is determined by lot.

The Umpire presides over the Tribunal, which gives its decisions by a majority of votes.

ARTICLE 88.

In the absence of any previous agreement the Tribunal, as soon as it is formed, settles the time within which the two parties must submit their respective cases to it.

ARTICLE 89.

Each party is represented before the Tribunal by an agent, who serves as intermediary between the Tribunal and the Government who appointed him.

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CHAPITRE IV.—*De la Procédure sommaire d'arbitrage.*

ARTICLE 86.

En vue de faciliter le fonctionnement de la justice arbitrale, lorsqu'il s'agit de litiges de nature à comporter une procédure sommaire, les Puissances contractantes arrêtent les règles ci-après qui seront suivies en l'absence de stipulations différentes, et sous réserve, le cas échéant, de l'application des dispositions du Chapitre III qui ne seraient pas contraires.

ARTICLE 87.

Chacune des Parties en litige nomme un arbitre. Les deux arbitres ainsi désignés choisissent un surarbitre. S'ils ne tombent pas d'accord à ce sujet, chacun présénte deux candidats pris sur la liste générale des Membres de la Cour permanente en dehors des Membres indiqués par chacune des Parties Elles-mêmes et n'étant les nationaux d'aucune d'Elles; le sort détermine lequel des candidats ainsi présentés sera le surarbitre.

Le surarbitre préside le Tribunal, qui rend ses décisions à la majorité des voix.

ARTICLE 88.

A défaut d'accord préalable, le Tribunal fixe, dès qu'il est constitué, le délai dans lequel les deux Parties devront lui soumettre leurs mémoires respectifs.

ARTICLE 89.

Chaque Partie est représentée devant le Tribunal par un agent qui sert d'intermédiaire entre le Tribunal et le Gouvernement qui l'a désigné.

ARTICLE 90.

The proceedings are conducted exclusively in writing. Each party, however, is entitled to ask that witnesses and experts should be called. The Tribunal has, for its part, the right to demand oral explanations from the agents of the two parties, as well as from the experts and witnesses whose appearance in Court it may consider useful.

PART V.—*Final Provisions.*

ARTICLE 91.

The present Convention, duly ratified, shall replace, as between the Contracting Powers, the Convention for the Pacific Settlement of International Disputes of the 29th July, 1899.

ARTICLE 92.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers which take part therein and by the Netherlands Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Netherlands Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, and of the instruments of ratification, shall be immediately sent by the Netherlands Government, through the diplomatic channel, to the Powers

ARTICLE 90.

La procédure a lieu exclusivement par écrit. Toutefois, chaque Partie a le droit de demander la comparution de témoins et d'experts. Le Tribunal a, de son côté, la faculté de demander des explications orales aux agents des deux Parties, ainsi qu'aux experts et aux témoins dont il juge la comparution utile.

TITRE V.—*Dispositions finales.*

ARTICLE 91.

La présente Convention dûment ratifiée remplacera, dans les rapports entre les Puissances contractantes, la Convention pour le règlement pacifique des conflits internationaux du 29 juillet 1899.

ARTICLE 92.

La présente Convention sera ratifiée aussitôt que possible.

Les ratifications seront déposées à La Haye.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Etrangères des Pays-Bas.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratification, des notifications mentionnées à l'alinéa précédent, ainsi que des instruments de ratification, sera immédiatement remise, par les soins du Gouvernement des Pays-Bas et par la voie diplomatique, aux Puissances conviées

invited to the Second Peace Conference, as well as to other Powers which shall have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall at the same time inform the Powers of the date on which it received the notification.

ARTICLE 93.

Non-Signatory Powers which have been invited to the Second Peace Conference may adhere to the present Convention.

The Power which desires to adhere notifies its intention in writing to the Netherlands Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

This Government shall immediately forward to all the other Powers invited to the Second Peace Conference a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE 94.

The conditions on which the Powers which have not been invited to the Second Peace Conference may adhere to the present Convention shall form the subject of a subsequent Agreement between the Contracting Powers.

ARTICLE 95.

The present Convention shall take effect, in the case of the Powers which were not a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of this deposit, and, in the case of the Powers which ratify subsequently or which adhere,

à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'alinéa précédent, ledit Gouvernement Leur fera connaître en même temps la date à laquelle il a reçu la notification.

ARTICLE 93.

Les Puissances non signataires qui ont été conviées à la Deuxième Conférence de la Paix pourront adhérer á la présente Convention.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances conviées à la Deuxième Conférence de la Paix copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE 94.

Les conditions auxquelles les Puissances qui n'ont pas été conviées à la Deuxième Conférence de la Paix, pourront adhérer à la présente Convention, formeront l'objet d'une entente ultérieure entre les Puissances contractantes.

ARTICLE 95.

La présente Convention produira effet, pour les Puissances qui auront participé au premier dépôt de ratifications, soixante jours après la date du procès-verbal de ce dépôt et, pour les Puissances qui ratifieront ultérieurement ou qui adhèreront, soixante jours

sixty days after the notification of their ratification or of their adhesion has been received by the Netherlands Government.

ARTICLE 96.

In the event of one of the Contracting Parties wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherlands Government, which shall immediately communicate a duly certified copy of the notification to all the other Powers informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherlands Government.

ARTICLE 97.

A register kept by the Netherlands Ministry for Foreign Affairs shall give the date of the deposit of ratifications effected in virtue of Article 92, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article 93, paragraph 2) or of denunciation (Article 96, paragraph 1) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.[a]

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherlands Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Contracting Powers.

après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ARTICLE 96.

S'il arrivait qu'une des Puissances contractantes voulût dénoncer la présente Convention, la dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Puissances en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et un an après que la notification en sera parvenu au Gouvernement des Pays-Bas.

ARTICLE 97.

Un registre tenu par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt de ratifications effectué en vertu de l'article 92 alinéas 3 et 4, ainsi que la date à laquelle auront été reçues les notifications d'adhésion (article 93 alinéa 2) ou de dénonciation (article 96 alinéa 1).

Chaque Puissance contractante est admise à prendre connaissance de ce registre et à en demander des extraits certifiés conformes.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de leurs signatures.

Fait à La Haye, le dix-huit octobre mil neuf cent sept, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies certifiées conformes, seront remises par la voie diplomatique aux Puissances contractantes.

[a] See at end, Table of Signatures.

RESOLUTION OF RATIFICATION.

Resolved (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of a convention signed by the delegates of the United States to the Second International Peace Conference, held at The Hague from June sixteenth to October eighteenth, nineteen hundred and seven, for the pacific settlement of international disputes, subject to the declaration made by the delegates of the United States before signing said convention, namely:

"Nothing contained in this convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions of policy or internal administration of any foreign state; nor shall anything contained in the said convention be construed to imply a relinquishment by the United States of its traditional attitude toward purely American questions."

Resolved further, as a part of this act of ratification, That the United States approves this convention with the understanding that recourse to the permanent court for the settlement of differences can be had only by agreement thereto through general or special treaties of arbitration heretofore or hereafter concluded between the parties in dispute; and the United States now exercises the option contained in article fifty-three of said convention, to exclude the formulation of the "compromis" by the permanent court, and hereby excludes from the competence of the permanent court the power to frame the "compromis" required by general or special treaties of arbitration concluded or hereafter to be concluded by the United States, and further expressly declares that the "compromis" required by any treaty of arbitration to which the United States may be a party shall be settled only by agreement between the contracting parties, unless such treaty shall expressly provide otherwise.

CONVENTION RESPECTING THE LIMITATION OF THE EMPLOYMENT OF FORCE FOR THE RECOVERY OF CONTRACT DEBTS.

Signed by the United States delegates. Ratification advised by the Senate, April 7, 1908.

The Contracting Powers (see Final Act) being desirous of avoiding between nations armed conflicts of a pecuniary origin arising from contract debts which are claimed from the Government of one country by the Government of another country as due to its nationals, have resolved to conclude a Convention to this effect, and have appointed the following as their Plenipotentiaries:

[For names of Plenipotentiaries, see Final Act.]

Who, after depositing their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1.

The Contracting Powers agree not to have recourse to armed force for the recovery of contract debts claimed from the Government of one country by the Government of another country as being due to its nationals.

This undertaking is, however, not applicable when the debtor State refuses or neglects to reply to an offer of arbitration, or, after accepting the offer, prevents any "Compromis" from being agreed on, or, after the arbitration, fails to submit to the award.

ARTICLE 2.

It is further agreed that the arbitration mentioned in paragraph 2 of the foregoing Article shall be subject to the procedure laid down in Part IV, Chapter III, of The Hague Convention for the Pacific Settlement of International Disputes. The award shall determine, except where otherwise agreed between the parties, the validity of the claim, the amount of the debt, and the time and mode of payment.

ARTICLE 3.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers taking part therein and by the Netherlands Minister for Foreign Affairs.

ARTICLE PREMIER.

Les Puissances contractantes sont convenues de ne pas avoir recours à la force armée pour le recouvrement de dettes contractuelles réclamées au Gouvernement d'un pays par le Gouvernement d'un autre pays comme dues à ses nationaux.

Toutefois, cette stipulation ne pourra être appliquée quand l'Etat débiteur refuse ou laisse sans réponse une offre d'arbitrage, ou, en cas d'acceptation, rend impossible l'établissement du compromis, ou, après l'arbitrage, manque de se conformer à la sentence rendue.

ARTICLE 2.

Il est de plus convenu que l'arbitrage, mentionné dans l'alinéa 2 de l'article précédent, sera soumis à la procédure prévue par le titre IV chapitre III de la Convention de La Haye pour le règlement pacifique des conflits internationaux. Le jugement arbitral détermine, sauf les arrangements particuliers des Parties, le bienfondé de la réclamation, le montant de la dette, le temps et le mode de paiement.

ARTICLE 3.

La présente Convention sera ratifiée aussitôt que possible.

Les ratifications seront déposées à La Haye.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Etrangères des Pays-Bas.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherlands Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be sent immediately by the Netherlands Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to other Powers which shall have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it received the notification.

ARTICLE 4.

Non-Signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies its intention in writing to the Netherlands Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall forward immediately to all the other Powers invited to the Second Peace Conference a duly certified copy of the notification, as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE 5.

The present Convention shall come into force, in the case of the Powers which were a party to

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent, ainsi que des instruments de ratification, sera immédiatement remise, par les soins du Gouvernement des Pays-Bas et par la voie diplomatique, aux Puissances conviées à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'alinéa précédent, ledit Gouvernement leur fera connaître en même temps la date à laquelle il a reçu la notification.

ARTICLE 4.

Les Puissances non signataires sont admises à adhérer à la présente Convention.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances conviées à la Deuxième Conférence de la Paix copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE 5.

La présente Convention produira effet pour les Puissances qui auront participé au premier dépôt

the first deposit of ratifications, sixty days after the date of the *procès-verbal* of this deposit, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherlands Government.

ARTICLE 6.

In the event of one of the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherlands Government, which shall immediately communicate a duly certified copy of the notification to all the other Powers, informing them at the same time of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherlands Government.

ARTICLE 7.

A register kept by the Netherlands Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article 3, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article 4, paragraph 2) or of denunciation (Article 6, paragraph 1) were received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention. [a]

de ratifications, soixante jours après la date du procés-verbal de ce dépôt, pour les Puissances qui ratifieront ultérieurement ou qui adhèreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ARTICLE 6.

S'il arrivait qu'une des Puissances contractantes voulût dénoncer la présente Convention, la dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Puissances en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et un an après que la notification en sera parvenue au Gouvernement des Pays-Bas.

ARTICLE 7.

Un registre tenu par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt de ratifications effectué en vertu de l'article 3 alinéas 3 et 4, ainsi que la date à laquelle auront été reçues les notifications d'adhésion (article 4 alinéa 2) ou de dénonciation (article 6 alinéa 1).

Chaque Puissance contractante est admise à prendre connaissance de ce registre et à en demander des extraits certifiés conformes.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de leurs signatures.

[a] See at end, Table of Signatures.

Done at the Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherlands Government, and duly certified copies of which shall be sent to the Contracting Powers through the diplomatic channel.

Fait à La Haye, le dix-huit octobre mil neuf cent sept, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies certifiées conformes seront remises par la voie diplomatique aux Puissances contractantes.

RESOLUTION OF RATIFICATION.

Resolved (two-thirds of the Senators present concurring therein), that the Senate advise and consent to the ratification of a convention signed by the delegates of the United States to the Second International Peace Conference held at The Hague from June 15 to October 18, 1907, respecting the limitation of the employment of force for the recovery of contract debts.

Resolved further, as a part of this act of ratification, that the United States approves this convention with the understanding that recourse to the permanent court for the settlement of the differences referred to in said convention can be had only by agreement thereto through general or special treaties of arbitration heretofore or hereafter concluded between the parties in dispute.

CONVENTION RELATIVE TO THE OPENING OF HOSTILITIES.

Signed by the United States Delegates. Ratification advised by the Senate, March 10, 1908.

The Contracting Powers (see Final Act) considering that it is important, in order to ensure the maintenance of pacific relations, that hostilities should not commence without previous warning;

That it is equally important that the existence of a state of war should be notified without delay to neutral Powers;

Being desirous of concluding a Convention to this effect, have appointed the following as their Plenipotentiaries:

[For names of Plenipotentiaries, see Final Act.]

Who, after depositing their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1.

The Contracting Powers recognize that hostilities between themselves must not commence without previous and explicit warning, in the form either of a reasoned declaration of war or of an ultimatum with conditional declaration of war.

ARTICLE PREMIER.

Les Puissances contractantes reconnaissent que les hostilités entre elles ne doivent pas commencer sans un avertissement préalable et non équivoque, qui aura, soit la forme d'une déclaration de guerre motivée, soit celle d'un ultimatum avec déclaration de guerre conditionnelle.

ARTICLE 2.

The existence of a state of war must be notified to the neutral Powers without delay, and shall not take effect in regard to them until after the receipt of a notification, which may, however, be given by telegraph. Neutral Powers, nevertheless, cannot rely on the absence of notification if it is clearly established that they were in fact aware of the existence of a state of war.

ARTICLE 2.

L'état de guerre devra être notifié sans retard aux Puissances neutres et ne produira effet à leur égard qu'après réception d'une notification qui pourra être faite même par voie télégraphique. Toutefois les Puissances neutres ne pourraient invoquer l'absence de notification, s'il était établi d'une manière non douteuse qu'en fait elles connaissaient l'état de guerre.

ARTICLE 3.

Article 1 of the present Convention shall take effect in case of war between two or more of the Contracting Powers.

Article 2 is binding as between a belligerent Power which is a party to the Convention and neutral Powers which are also parties to the Convention.

ARTICLE 3.

L'article 1 de la présente Convention produira effet en cas de guerre entre deux ou plusieurs des Puissances contractantes.

L'article 2 est obligatoire dans les rapports entre un belligérant contractant et les Puissances neutres également contractantes.

* * * * * * * *

(Five articles follow, Nos. 4 to 8, similar to Articles 3 to 7 of the Convention for the Recovery of Contract Debts.)

CONVENTION RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND.

Signed by the United States Delegates. Ratification advised by the Senate, March 10, 1908.

The Contracting Powers (see Final Act) seeing that, while seeking means to preserve peace and prevent armed conflicts between nations, it is likewise necessary to bear in mind the case where the appeal to arms has been brought about by events which their care was unable to avert;

Animated by the desire to serve, even in this extreme case, the interests of humanity and the ever progressive needs of civilization;

Thinking it important, with this object, to revise the general laws and customs of war, either with a view to defining them with greater precision or to confining them within such limits as would mitigate their severity as far as possible;

Have deemed it necessary to complete and explain in certain particulars the work of the First Peace Conference, which, following on the Brussels Conference of 1874, and inspired by the ideas dictated by a wise and generous forethought, adopted provisions intended to define and govern the usages of war on land.

According to the views of the High Contracting Parties, these provisions, the wording of which has been inspired by the desire to diminish the evils of war, as far as military requirements permit, are intended to serve as a general rule of conduct for the belligerents in their mutual relations and in their relations with the inhabitants.

It has not, however, been found possible at present to concert Regulations covering all the circumstances which arise in practice.

On the other hand, the High Contracting Parties clearly do not intend that unforeseen cases should, in the absence of a written undertaking, be left to the arbitrary judgment of military commanders.

Until a more complete code of the laws of war has been issued, the High Contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience.

They declare that it is in this sense especially that Articles 1 and 2 of the Regulations adopted must be understood.

The High Contracting Parties, wishing to conclude a fresh Convention to this effect, have appointed the following as their Plenipotentiaries:—

[For names of Plenipotentiaries, see Final Act.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following:

ARTICLE 1.

The Contracting Powers shall issue instructions to their armed land forces which shall be in conformity with the Regulations respecting the Laws and Customs of War on Land, annexed to the present Convention.

ARTICLE 2.

The provisions contained in the Regulations referred to in Article 1, as well as in the present Convention, do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

ARTICLE PREMIER.

Les Puissances contractantes donneront à leurs forces armées de terre des instructions qui seront conformes au Règlement concernant les lois et coutumes de la guerre sur terre, annexé à la présente Convention.

ARTICLE 2.

Les dispositions contenues dans le Règlement visé à l'article 1er ainsi que dans la présente Convention, ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

ARTICLE 3.

A belligerent party which violates the provisions of the said Regulations shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.

ARTICLE 3.

La Partie belligérante qui violerait les dispositions dudit Règlement sera tenue à indemnité, s'il y a lieu. Elle sera responsable de tous actes commis par les personnes faisant partie de sa force armée.

ARTICLE 4.

The present Convention, duly ratified, shall as between the Contracting Powers, be substituted for the Convention of the 29th July, 1899, respecting the Laws and Customs of War on Land.

The Convention of 1899 remains in force as between the Powers which signed it, and which do not also ratify the present Convention.

ARTICLE 4.

La présente Convention dûment ratifiée remplacera, dans les rapports entre les Puissances contractantes, la Convention du 29 juillet 1899 concernant les lois et coutumes de la guerre sur terre.

La Convention de 1899 reste en vigueur dans les rapports entre les Puissances qui l'ont signée et qui ne ratifieraient pas également la présente Convention.

* * * * * * * *

(Five articles follow, Nos. 5 to 9, similar to Articles 3 to 7 of the Convention for the Recovery of Contract Debts.)

ANNEX TO THE CONVENTION.

Regulations respecting the Laws and Customs of War on Land.

ANNEXE À LA CONVENTION.

Règlement concernant les lois et coutumes de la guerre sur terre.

SECTION I.—*On Belligerents.*

SECTION I.—*Des Belligérants.*

CHAPTER 1.—*The Qualifications of Belligerents.*

CHAPITRE I.—*De la qualité de belligérant.*

ARTICLE 1.

The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps fulfilling the following conditions:

1. To be commanded by a person responsible for his subordinates;

2. To have fixed a distinctive emblem recognizable at a distance;

3. To carry arms openly; and

ARTICLE PREMIER.

Les lois, les droits et les devoirs de la guerre ne s'appliquent pas seulement à l'armée, mais encore aux milices et aux corps de volontaires réunissant les conditions suivantes:

1°. d'avoir à leur tête une personne responsable pour ses subordonnés;

2°. d'avoir un signe distinctif fixe et reconnaissable à distance;

3°. de porter les armes ouvertement et;

4. To conduct their operations in accordance with the laws and customs of war.

In countries where militia or volunteer corps constitute the army, or form part of it, they are included under the denomination "army."

ARTICLE 2.

The inhabitants of a territory which has not been occupied, who, on the approach of the enemy, spontaneously take up arms to resist the invading troops without having had time to organize themselves in accordance with Article 1, shall be regarded as belligerents if they carry arms openly and if they respect the laws and customs of war.

ARTICLE 3.

The armed forces of the belligerent parties may consist of combatants and noncombatants. In the case of capture by the enemy, both have a right to be treated as prisoners of war.

CHAPTER II.—*Prisoners of war.*

ARTICLE 4.

Prisoners of war are in the power of the hostile Government, but not of the individuals or corps who capture them.

They must be humanely treated.

All their personal belongings, except arms, horses, and military papers, remain their property.

ARTICLE 5.

Prisoners of war may be interned in a town, fortress, camp, or other place, and bound not to go beyond

4°. de se conformer dans leurs opérations aux lois et coutumes de la guerre.

Dans les pays où les milices ou des corps de volontaires constituent l'armée ou en font partie, ils sont compris sous la dénomination d'*armée*.

ARTICLE 2.

La population d'un territoire non occupé qui, à l'approche de l'ennemi, prend spontanément les armes pour combattre les troupes d'invasion sans avoir eu le temps de s'organiser conformément à l'article premier, sera considérée comme belligérante si elle porte les armes ouvertement et si elle respecte les lois et coutumes de la guerre.

ARTICLE 3.

Les forces armées des Parties belligérantes peuvent se composer de combattants et de non-combattants. En cas de capture par l'ennemi, les uns et les autres ont droit au traitement des prisonniers de guerre.

CHAPITRE II.—*Des prisonniers de guerre.*

ARTICLE 4.

Les prisonniers de guerre sont au pouvoir du Gouvernement ennemi, mais non des individus ou des corps qui les ont capturés.

Ils doivent être traités avec humanité.

Tout ce qui leur appartient personnellement, excepté les armes, les chevaux et les papiers militaires, reste leur propriété.

ARTICLE 5.

Les prisonniers de guerre peuvent être assujettis à l'internement dans une ville, forteresse,

certain fixed limits; but they cannot be confined except as an indispensable measure of safety and only while the circumstances which necessitate the measure continue to exist.

ARTICLE 6.

The State may utilize the labor of prisoners of war according to their rank and aptitude, officers excepted. The tasks shall not be excessive and shall have no connection with the operations of the war.

Prisoners may be authorized to work for the public service, for private persons, or on their own account.

Work done for the State is paid at the rates in force for work of a similar kind done by soldiers of the national army, or, if there are none in force, at a rate according to the work executed.

When the work is for other branches of the public service or for private persons the conditions are settled in agreement with the military authorities.

The wages of the prisoners shall go towards improving their position, and the balance shall be paid them on their release, after deducting the cost of their maintenance.

ARTICLE 7.

The Government into whose hands prisoners of war have fallen is charged with their maintenance.

camp ou localité quelconque, avec obligation de ne pas s'en éloigner au delà de certaines limites déterminées; mais ils ne peuvent être enfermés que par mesure de sûreté indispensable, et seulement pendant la durée des circonstances qui nécessitent cette mesure.

ARTICLE 6.

L'Etat peut employer, comme travailleurs, les prisonniers de guerre, selon leur grade et leurs aptitudes, à l'exception des officiers. Ces travaux ne seront pas excessifs et n'auront aucun rapport avec les opérations de la guerre.

Les prisonniers peuvent être autorisés à travailler pour le compte d'administrations publiques ou de particuliers, ou pour leur propre compte.

Les travaux faits pour l'Etat sont payés d'après les tarifs en vigueur pour les militaires de l'armée nationale exécutant les mêmes travaux, ou, s'il n'en existe pas, d'après un tarif en rapport avec les travaux exécutés.

Lorsque les travaux ont lieu pour le compte d'autres administrations publiques ou pour des particuliers, les conditions en sont réglées d'accord avec l'autorité militaire.

Le salaire des prisonniers contribuera à adoucir leur position, et le surplus leur sera compté au moment de leur libération, sauf défalcation des frais d'entretien.

ARTICLE 7.

Le Gouvernement au pouvoir duquel se trouvent les prisonniers de guerre est chargé de leur entretien.

In the absence of a special agreement between the belligerents, prisoners of war shall be treated as regards board, lodging, and clothing on the same footing as the troops of the Government who captured them.

ARTICLE 8.

Prisoners of war shall be subject to the laws, regulations, and orders in force in the army of the State in whose power they are. Any act of insubordination justifies the adoption towards them of such measures of severity as may be considered necessary.

Escaped prisoners who are retaken before being able to rejoin their own army or before leaving the territory occupied by the army which captured them are liable to disciplinary punishment.

Prisoners who, after succeeding in escaping, are again taken prisoners, are not liable to any punishment on account of the previous flight.

ARTICLE 9.

Every prisoner of war is bound to give, if he is questioned on the subject, his true name and rank, and if he infringes this rule, he is liable to have the advantages given to prisoners of his class curtailed.

ARTICLE 10.

Prisoners of war may be set at liberty on parole if the laws of their country allow, and, in such cases, they are bound, on their personal honor, scrupulously to fulfil, both towards their own Government and the Government by whom they

A défaut d'une entente spéciale entre les belligérants, les prisonniers de guerre seront traités pour la nourriture, le couchage et l'habillement, sur le même pied que les troupes du Gouvernement qui les aura capturés.

ARTICLE 8.

Les prisonniers de guerre seront soumis aux lois, règlements et ordres en vigueur dans l'armée de l'Etat au pouvoir duquel ils se trouvent. Tout acte d'insubordination autorise, à leur égard, les mesures de rigueur nécessaires.

Les prisonniers évadés, qui seraient repris avant d'avoir pu rejoindre leur armée ou avant de quitter le territoire occupé par l'armée qui les aura capturés, sont passibles de peines disciplinaires.

Les prisonniers qui, après avoir réussi à s'évader, sont de nouveau faits prisonniers, ne sont passibles d'aucune peine pour la fuite antérieure.

ARTICLE 9.

Chaque prisonnier de guerre est tenu de déclarer, s'il est interrogé à ce sujet, ses véritables noms et grade et, dans le cas où il enfreindrait cette règle, il s'exposerait à une restriction des avantages accordés aux prisonniers de guerre de sa catégorie.

ARTICLE 10.

Les prisonniers de guerre peuvent être mis en liberté sur parole, si les lois de leur pays les y autorisent, et, en pareil cas, ils sont obligés, sous la garantie de leur honneur personnel, de remplir scrupuleusement, tant vis-à-vis de

were made prisoners, the engagements they have contracted.

In such cases their own Government is bound neither to require of nor accept from them any service incompatible with the parole given.

ARTICLE 11.

A prisoner of war cannot be compelled to accept his liberty on parole; similarly the hostile Government is not obliged to accede to the request of the prisoner to be set at liberty on parole.

ARTICLE 12.

Prisoners of war liberated on parole and recaptured bearing arms against the Government to whom they had pledged their honor, or against the allies of that Government, forfeit their right to be treated as prisoners of war, and can be brought before the Courts.

ARTICLE 13.

Individuals who follow an army without directly belonging to it, such as newspaper correspondents and reporters, sutlers and contractors, who fall into the enemy's hands and whom the latter thinks expedient to detain, are entitled to be treated as prisoners of war, provided they are in possession of a certificate from the military authorities of the army which they were accompanying.

ARTICLE 14.

An inquiry office for prisoners of war is instituted on the commencement of hostilities in each of the

leur propre Gouvernement que vis-à-vis de celui qui les a faits prisonniers, les engagements qu'ils auraient contractés.

Dans le même cas, leur propre Gouvernement est tenu de n'exiger ni accepter d'eux aucun service contraire à la parole donnée.

ARTICLE 11.

Un prisonnier de guerre ne peut être contraint d'accepter sa liberté sur parole; de même le Gouvernement ennemi n'est pas obligé d'accéder à la demande du prisonnier réclamant sa mise en liberté sur parole.

ARTICLE 12.

Tout prisonnier de guerre, libéré sur parole et repris portant les armes contre le Gouvernement envers lequel il s'était engagé d'honneur, ou contre les alliés de celui-ci, perd le droit au traitement des prisonniers de guerre et peut être traduit devant les tribunaux.

ARTICLE 13.

Les individus qui suivent une armée sans en faire directement partie, tels que les correspondants et les reporters de journaux, les vivandiers, les fournisseurs, qui tombent au pouvoir de l'ennemi et que celui-ci juge utile de détenir, ont droit au traitement des prisonniers de guerre, à condition qu'ils soient munis d'une légitimation de l'autorité militaire de l'armée qu'ils accompagnaient.

ARTICLE 14.

Il est constitué, dès le début des hostilités, dans chacun des Etats belligérants, et, le cas échéant,

belligerent States, and, when necessary, in neutral countries which have received belligerents in their territory. It is the function of this office to reply to all inquiries about the prisoners. It receives from the various services concerned full information respecting internments and transfers, releases on parole, exchanges, escapes, admissions into hospital, deaths, as well as other information necessary to enable it to make out and keep up to date an individual return for each prisoner of war. The office must state in this return the regimental number, name and surname, age, place of origin, rank, unit, wounds, date and place of capture, internment, wounding, and death, as well as any observations of a special character. The individual return shall be sent to the Government of the other belligerent after the conclusion of peace.

It is likewise the function of the inquiry office to receive and collect all objects of personal use, valuables, letters, &c., found on the field of battle or left by prisoners who have been released on parole, or exchanged, or who have escaped, or died in hospitals or ambulances, and to forward them to those concerned.

ARTICLE 15.

Relief societies for prisoners of war, which are properly constituted in accordance with the laws of their country and with the object of serving as the channel for

dans les pays neutres qui auront recueilli des belligérants sur leur territoire, un bureau de renseignements sur les prisonniers de guerre. Ce bureau, chargé de répondre à toutes les demandes qui les concernent, reçoit des divers services compétents toutes les indications relatives aux internements et aux mutations, aux mises en liberté sur parole, aux échanges, aux évasions, aux entrées dans les hôpitaux, aux décès, ainsi que les autres renseignements nécessaires pour établir et tenir à jour une fiche individuelle pour chaque prisonnier de guerre. Le bureau devra porter sur cette fiche le numéro matricule, les nom et prénom, l'âge, le lieu d'origine, le grade, le corps de troupe, les blessures, la date et le lieu de la capture, de l'internement, des blessures et de la mort, ainsi que toutes les observations particulières. La fiche individuelle sera remise au Gouvernement de l'autre belligérant après la conclusion de la paix.

Le bureau de renseignements est également chargé de recueillir et de centraliser tous les objets d'un usage personnel, valeurs, lettres etc., qui seront trouvés sur les champs de bataille ou délaissés par des prisonniers libérés sur parole, échangés, évadés ou décédés dans les hôpitaux et ambulances, et de les transmettre aux intéressés.

ARTICLE 15.

Les sociétés de secours pour les prisonniers de guerre, régulièrement constituées selon la loi de leur pays et ayant pour objet d'être les intermédiaires de l'ac-

charitable effort shall receive from the belligerents, for themselves and their duly accredited agents every facility for the efficient performance of their humane task within the bounds imposed by military necessities and administrative regulations. Agents of these societies may be admitted to the places of internment for the purpose of distributing relief, as also to the halting places of repatriated prisoners, if furnished with a personal permit by the military authorities, and on giving an undertaking in writing to comply with all measures of order and police which the latter may issue.

tion charitable, recevront, de la part des belligérants, pour elles et pour leurs agents dûment accrédités, toute facilité, dans les limites tracées par les nécessités militaires et les règles administratives, pour accomplir efficacement leur tâche d'humanité. Les délégués de ces sociétés pourront être admis à distribuer des secours dans les dépôts d'internements, ainsi qu'aux lieux d'étape des prisonniers rapatriés, moyennant une permission personnelle délivrée par l'autorité militaire, et en prenant l'engagement par écrit de se soumettre à toutes les mesures d'ordre et de police que celle-ci prescrirait.

ARTICLE 16.

Inquiry offices enjoy the privilege of free postage. Letters, money orders, and valuables, as well as parcels by post, intended for prisoners of war, or dispatched by them, shall be exempt from all postal duties in the countries of origin and destination, as well as in the countries they pass through.

Presents and relief in kind for prisoners of war shall be admitted free of all import or other duties, as well as of payments for carriage by the State railways.

ARTICLE 16.

Les bureaux de renseignements jouissent de la franchise de port. Les lettres, mandats et articles d'argent, ainsi que les colis postaux destinés aux prisonniers de guerre ou expédiés par eux, seront affranchis de toutes les taxes postales, aussi bien dans les pays d'origine et de destination que dans les pays intermédiaires.

Les dons et secours en nature destinés aux prisonniers de guerre seront admis en franchise de tous droits d'entrée et autres, ainsi que des taxes de transport sur les chemins de fer exploités par l'Etat.

ARTICLE 17.

Officers taken prisoners shall receive the same rate of pay as officers of corresponding rank in the country where they are detained, the amount to be ultimately refunded by their own Government.

ARTICLE 17.

Les officiers prisonniers recevront la solde à laquelle ont droit les officiers de même grade du pays où ils sont retenus, à charge de remboursement par leur Gouvernement.

ARTICLE 18.

Prisoners of war shall enjoy complete liberty in the exercise of their religion, including attendance at the services of whatever Church they may belong to, on the sole condition that they comply with the measures of order and police issued by the military authorities.

ARTICLE 19.

The wills of prisoners of war are received or drawn up in the same way as for soldiers of the national army.

The same rules shall be observed regarding death certificates as well as for the burial of prisoners of war, due regard being paid to their grade and rank.

ARTICLE 20.

After the conclusion of peace, the repatriation of prisoners of war shall be carried out as quickly as possible.

CHAPTER III.—*The Sick and Wounded.*

ARTICLE 21.

The obligations of belligerents with regard to the sick and wounded are governed by the Geneva Convention.

SECTION II.—*Hostilities.*

CHAPTER I.—*Means of Injuring the Enemy, Sieges, and Bombardments.*

ARTICLE 22.

The right of belligerents to adopt means of injuring the enemy is not unlimited.

ARTICLE 18.

Toute latitude est laissée aux prisonniers de guerre pour l'exercice de leur religion, y compris l'assistance aux offices de leur culte, à la seule condition de se conformer aux mesures d'ordre et de police prescrites par l'autorité militaire.

ARTICLE 19.

Les testaments des prisonniers de guerre sont reçus ou dressés dans les mêmes conditions que pour les militaires de l'armée nationale.

On suivra également les mêmes règles en ce qui concerne les pièces relatives à la constatation des décès, ainsi que pour l'inhumation des prisonniers de guerre, en tenant compte de leur grade et de leur rang.

ARTICLE 20.

Après la conclusion de la paix, le rapatriement des prisonniers de guerre s'effectuera dans le plus bref délai possible.

CHAPITRE III.—*Des malades et des blessés.*

ARTICLE 21.

Les obligations des belligérants concernant le service des malades et des blessés sont régies par la Convention de Genève.

SECTION II.—*Des Hostilités.*

CHAPITRE I.—*Des moyens de nuire à l'ennemi, des sièges et des bombardements.*

ARTICLE 22.

Les belligérants n'ont pas un droit illimité quant au choix des moyens de nuire à l'ennemi.

ARTICLE 23.

In addition to the prohibitions provided by special Conventions, it is especially forbidden—

(*a*) To employ poison or poisoned weapons;

(*b*) To kill or wound treacherously individuals belonging to the hostile nation or army;

(*c*) To kill or wound an enemy who, having laid down his arms, or having no longer means of defence, has surrendered at discretion;

(*d*) To declare that no quarter will be given;

(*e*) To employ arms, projectiles, or material calculated to cause unnecessary suffering;

(*f*) To make improper use of a flag of truce, of the national flag, or of the military insignia and uniform of the enemy, as well as the distinctive badges of the Geneva Convention;

(*g*) To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war;

(*h*) To declare abolished, suspended, or inadmissible in a Court of law the rights and actions of the nationals of the hostile party.

A belligerent is likewise forbidden to compel the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war.

ARTICLE 24.

Ruses of war and the employment of measures necessary for obtaining information about the enemy and the country are considered permissible.

ARTICLE 23.

Outre les prohibitions établies par des conventions spéciales, il est notamment interdit:

(*a*) d'employer du poison ou des armes empoisonnés;

(*b*) de tuer ou de blesser par trahison des individus appartenant à la nation ou à l'armée ennemie;

(*c*) de tuer ou de blesser un ennemi qui, ayant mis bas les armes ou n'ayant plus les moyens de se défendre, s'est rendu à discrétion;

(*d*) de déclarer qu'il ne sera pas fait de quartier;

(*e*) d'employer des armes, des projectiles ou des matières propres à causer des maux superflus;

(*f*) d'user indûment du pavillon parlementaire, du pavillon national ou des insignes militaires et de l'uniforme de l'ennemi, ainsi que des signes distinctifs de la Convention de Genève;

(*g*) de détruire ou de saisir des propriétés ennemies, sauf les cas où ces destructions ou ces saisies seraient impérieusement commandées par les nécessités de la guerre;

(*h*) de déclarer éteints, suspendus ou non recevables en justice, les droits et actions des nationaux de la Partie adverse.

Il est également interdit à un belligérant de forcer les nationaux de la Partie adverse à prendre part aux opérations de guerre dirigées contre leur pays, même dans le cas où ils auraient été à son service avant le commencement de la guerre.

ARTICLE 24.

Les ruses de guerre et l'emploi des moyens nécessaires pour se procurer des renseignements sur l'ennemi et sur le terrain sont considérés comme licites.

ARTICLE 25.

The attack or bombardment, by whatever means, of towns, villages, dwellings, or buildings which are undefended is prohibited.

ARTICLE 26.

The officer in command of an attacking force must, before commencing a bombardment, except in cases of assault, do all in his power to warn the authorities.

ARTICLE 27.

In sieges and bombardments all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, provided they are not being used at the time for military purposes.

It is the duty of the besieged to indicate the presence of such buildings or places by distinctive and visible signs, which shall be notified to the enemy beforehand.

ARTICLE 28.

The pillage of a town or place, even when taken by assault, is prohibited.

CHAPTER II.—*Spies.*

ARTICLE 29.

A person can only be considered a spy when, acting clandestinely or on false pretences, he obtains or endeavors to obtain information in the zone of operations of a belligerent, with the intention of communicating it to the hostile party.

ARTICLE 25.

Il est interdit d'attaquer ou de bombarder, par quelque moyen que ce soit, des villes, villages, habitations ou bâtiments qui ne sont pas défendus.

ARTICLE 26.

Le commandant des troupes assaillantes, avant d'entreprendre le bombardement, et sauf le cas d'attaque de vive force, devra faire tout ce qui dépend de lui pour en avertir les autorités.

ARTICLE 27.

Dans les sièges et bombarde ments, toutes les mesures nécessaires doivent être prises pour épargner, autant que possible, les édifices consacrés aux cultes, aux arts, aux sciences et à la bienfaisance, les monuments historiques, les hôpitaux et les lieux de rassemblement de malades et de blessés, à condition qu'ils ne soient pas employés en même temps à un but militaire.

Le devoir des assiégés est de désigner ces édifices ou lieux de rassemblement par des signes visibles spéciaux qui seront notifiés d'avance à l'assiégeant.

ARTICLE 28.

Il est interdit de livrer au pillage une ville ou localité même prise d'assaut.

CHAPITRE II.—*Des espions.*

ARTICLE 29.

Ne peut être considéré comme espion que l'individu qui, agissant clandestinement ou sous de faux prétextes, recueille ou cherche à recueillir des informations dans la zône d'opérations d'un belligérant, avec l'intention de les communiquer à la Partie adverse.

Thus, soldiers not wearing a disguise who have penetrated into the zone of operations of the hostile army, for the purpose of obtaining information, are not considered spies. Similarly, the following are not considered spies: Soldiers and civilians, carrying out their mission openly, intrusted with the delivery of despatches intended either for their own army or for the enemy's army. To this class belong likewise persons sent in balloons for the purpose of carrying despatches and, generally, of maintaining communications between the different parts of an army or a territory.

ARTICLE 30.

A spy taken in the act shall not be punished without previous trial.

ARTICLE 31.

A spy who, after rejoining the army to which he belongs, is subsequently captured by the enemy, is treated as a prisoner of war, and incurs no responsibility for his previous acts of espionage.

CHAPTER III.—*Flags of Truce.*

ARTICLE 32.

A person is regarded as bearing a flag of truce who has been authorized by one of the belligerents to enter into communication with the other, and who advances bearing a white flag. He has a right to inviolability, as well as the trumpeter, bugler or drummer, the flag-bearer and interpreter who may accompany him.

Ainsi les militaires non déguisés qui ont pénétré dans la zône d'opérations de l'armée ennemie, à l'effet de recueillir des informations, ne sont pas considérés comme espions. De même, ne sont pas considérés comme espions: les militaires et les non militaires, accomplissant ouvertement leur mission, chargés de transmettre des dépêches destinées, soit à leur propre armée, soit à l'armée ennemie. A cette catégorie appartiennent également les individus envoyés en ballon pour transmettre les dépêches, et, en général, pour entretenir les communications entre les diverses parties d'une armée ou d'un territoire.

ARTICLE 30.

L'espion pris sur le fait ne pourra être puni sans jugement préalable.

ARTICLE 31.

L'espion qui, ayant rejoint l'armée à laquelle il appartient, est capturé plus tard par l'ennemi, est traité comme prisonnier de guerre et n'encourt aucune responsabilité pour ses actes d'espionnage antérieurs.

CHAPTRE III.—*Des parlementaires.*

ARTICLE 32.

Est considéré comme parlementaire l'individu autorisé par l'un des belligérants à entrer en pourparlers avec l'autre et se présentant avec le drapeau blanc. Il a droit à l'inviolabilité ainsi que le trompette, clairon ou tambour, le porte-drapeau et l'interprète qui l'accompagneraient.

ARTICLE 33.

The commander to whom a flag of truce is sent is not in all cases obliged to receive it.

He may take all the necessary steps to prevent the envoy taking advantage of his mission to obtain information.

In case of abuse, he has the right to detain the envoy temporarily.

ARTICLE 34.

The envoy loses his rights of inviolability if it is proved in a clear and incontestable manner that he has taken advantage of his privileged position to provoke or commit an act of treachery.

CHAPTER IV.—*Capitulations.*

ARTICLE 35.

Capitulations agreed upon between the contracting parties must take into account the rules of military honor.

Once settled, they must be scrupulously observed by both parties.

CHAPTER V.—*Armistices.*

ARTICLE 36.

An armistice suspends military operations by mutual agreement between the belligerent parties. If its duration is not defined, the belligerent parties may resume operations at any time, provided always that the enemy is warned within the time agreed upon, in accordance with the terms of the armistice.

ARTICLE 37.

An armistice may be general or local. The first suspends the military operations of the belligerent

ARTICLE 33.

Le chef auquel un parlementaire est expédié n'est pas obligé de le recevoir en toutes circonstances.

Il peut prendre toutes les mesures nécessaires afin d'empêcher le parlementaire de profiter de sa mission pour se renseigner.

Il a le droit, en cas d'abus, de retenir temporairement le parlementaire.

ARTICLE 34.

Le parlementaire perd ses droits d'inviolabilité, s'il est prouvé, d'une manière positive et irrécusable, qu'il a profité de sa position privilégiée pour provoquer ou commettre un acte de trahison.

CHAPITRE IV.—*Des capitulations.*

ARTICLE 35.

Les capitulations arrêtées entre les Parties contractantes doivent tenir compte des règles de l'honneur militaire.

Une fois fixées, elles doivent être scrupuleusement observées par les deux Parties.

CHAPITRE V.—*De l'armistice.*

ARTICLE 36.

L'armistice suspend les opérations de guerre par un accord mutuel des Parties belligérantes. Si la durée n'en est pas déterminée, les Parties belligérantes peuvent reprendre en tout temps les opérations, pourvu toutefois que l'ennemi soit averti en temps convenu, conformément aux conditions de l'armistice.

ARTICLE 37.

L'armistice peut être général ou local. Le premier suspend partout les opérations de guerre des Etats

States everywhere; the second only between certain fractions of the belligerent armies and within a fixed radius.

ARTICLE 38.

An armistice must be notified officially and in good time to the competent authorities and to the troops. Hostilities are suspended immediately after the notification, or on the date fixed.

ARTICLE 39.

It rests with the contracting parties to settle, in the terms of the armistice, what communications may be held in the theatre of war with the inhabitants and between the inhabitants of one belligerent State and those of the other.

ARTICLE 40.

Any serious violation of the armistice by one of the parties gives the other party the right of denouncing it, and even, in cases of urgency, of recommencing hostilities immediately.

ARTICLE 41.

A violation of the terms of the armistice by private persons acting on their own initiative only entitles the injured party to demand the punishment of the offenders or, if necessary, compensation for the losses sustained.

SECTION III.—*Military authority over the Territory of the Hostile State.*

ARTICLE 42.

Territory is considered occupied when it is actually placed under the authority of the hostile army.

belligérants; le second, seulement entre certaines fractions des armées belligérantes et dans un rayon déterminé.

ARTICLE 38.

L'armistice doit être notifié officiellement et en temps utile aux autorités compétentes et aux troupes. Les hostilités sont suspendues immédiatement après la notification ou au terme fixé.

ARTICLE 39.

Il dépend des Parties contractantes de fixer, dans les clauses de l'armistice, les rapports qui pourraient avoir lieu, sur le théâtre de la guerre, avec les populations et entre elles.

ARTICLE 40.

Toute violation grave de l'armistice, par l'une des Parties, donne à l'autre le droit de le dénoncer et même, en cas d'urgence, de reprendre immédiatement les hostilités.

ARTICLE 41.

La violation des clauses de l'armistice, par des particuliers agissant de leur propre initiative, donne droit seulement à réclamer la punition des coupables et, s'il y a lieu, une indemnité pour les pertes éprouvées.

SECTION III.—*De l'autorité militaire sur le territoire de l'Etat ennemi.*

ARTICLE 42.

Un territoire est considéré comme occupé lorsqu'il se trouve placé de fait sous l'autorité de l'armée ennemie.

The occupation extends only to the territory where such authority has been established and can be exercised.

ARTICLE 43.

The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

ARTICLE 44.

A belligerent is forbidden to force the inhabitants of territory occupied by it to furnish information about the army of the other belligerent, or about its means of defence.

ARTICLE 45.

It is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power.

ARTICLE 46.

Family honor and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected.

Private property cannot be confiscated.

ARTICLE 47.

Pillage is formally forbidden.

ARTICLE 48.

If, in the territory occupied, the occupant collects the taxes, dues, and tolls imposed for the benefit

L'occupation ne s'étend qu'aux territoires où cette autorité est établie et en mesure de s'exercer.

ARTICLE 43.

L'autorité du pouvoir légal ayant passé de fait entre les mains de l'occupant, celui-ci prendra toutes les mesures qui dépendent de lui en vue de rétablir et d'assurer, autant qu'il est possible, l'ordre et la vie publics en respectant, sauf empêchement absolu, les lois en vigueur dans le pays.

ARTICLE 44.

Il est interdit à un belligérant de forcer la population d'un territoire occupé à donner des renseignements sur l'armée de l'autre belligérant ou sur ses moyens de défense.

ARTICLE 45.

Il est interdit de contraindre la population d'un territoire occupé à prêter serment à la Puissance ennemie.

ARTICLE 46.

L'honneur et les droits de la famille, la vie des individus et la propriété privée, ainsi que les convictions religieuses et l'exercice des cultes, doivent être respectés.

La propriété privée ne peut pas être confisquée.

ARTICLE 47.

Le pillage est formellement interdit.

ARTICLE 48.

Si l'occupant prélève, dans le territoire occupé, les impôts, droits et péages établis au profit de l'Etat,

of the State, he shall do so, as far as is possible, in accordance with the rules of assessment and incidence in force, and shall in consequence be bound to defray the expenses of the administration of the occupied territory to the same extent as the legitimate Government was so bound.

ARTICLE 49.

If, in addition to the taxes mentioned in the above Article, the occupant levies other money contributions in the occupied territory, this shall only be for the needs of the army or of the administration of the territory in question.

ARTICLE 50.

No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible.

ARTICLE 51.

No contribution shall be collected except under a written order, and on the responsibility of a Commander-in-chief.

The collection of the said contribution shall only be effected as far as possible in accordance with the rules of assessment and incidence of the taxes in force.

For every contribution a receipt shall be given to the contributors.

ARTICLE 52.

Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the

il le fera, autant que possible, d'après les règles de l'assiette et de la répartition en vigueur, et il en résultera pour lui l'obligation de pourvoir aux frais de l'administration du territoire occupé dans la mesure où le Gouvernement légal y était tenu.

ARTICLE 49.

Si, en dehors des impôts visés à l'article précédent, l'occupant prélève d'autres contributions en argent dans le territoire occupé, ce ne pourra être que pour les besoins de l'armée ou de l'administration de ce territoire.

ARTICLE 50.

Aucune peine collective, pécuniaire ou autre, ne pourra être édictée contre les populations à raison de faits individuels dont elles ne pourraient être considérées comme solidairement responsables.

ARTICLE 51.

Aucune contribution ne sera perçue qu'en vertu d'un ordre écrit et sous la responsabilité d'un général en chef.

Il ne sera procédé, autant que possible, à cette perception que d'après les règles de l'assiette et de la répartition des impôts en vigueur.

Pour toute contribution, un reçu sera délivré aux contribuables.

ARTICLE 52.

Des réquisitions en nature et des services ne pourront être réclamés des communes ou des habitants, que pour les besoins de l'armée d'occupation. Ils seront en rapport avec les ressources du pays

country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country.

Such requisitions and services shall only be demanded on the authority of the commander in the locality occupied.

Contributions in kind shall as far as possible be paid for in cash; if not, a receipt shall be given and the payment of the amount due shall be made as soon as possible.

et de telle nature qu'ils n'impliquent pas pour les populations l'obligation de prendre part aux opérations de la guerre contre leur patrie.

Ces réquisitions et ces services ne seront réclamés qu'avec l'autorisation du commandant dans la localité occupée.

Les prestations en nature seront, autant que possible, payées au comptant; sinon, elles seront constatées par des reçus, et le paiement des sommes dues sera effectué le plus tôt possible.

ARTICLE 53.

An army of occupation can only take possession of cash, funds, and realizable securities which are strictly the property of the State, depôts of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for military operations.

All appliances, whether on land, at sea, or in the air, adapted for the transmission of news, or for the transport of persons or things, exclusive of cases governed by naval law, depôts of arms, and, generally, all kinds of ammunition of war, may be seized, even if they belong to private individuals, but must be restored and compensation fixed when peace is made.

ARTICLE 53.

L'armée qui occupe un territoire ne pourra saisir que le numéraire, les fonds et les valeurs exigibles appartenant en propre à l'Etat, les dépôts d'armes, moyens de transport, magasins et approvisionnements et, en général, toute propriété mobilière de l'Etat de nature à servir aux opérations de la guerre.

Tous les moyens affectés sur terre, sur mer et dans les airs à la transmission des nouvelles, au transport des personnes ou des choses, en dehors des cas régis par le droit maritime, les dépôts d'armes et, en général, toute espèce de munitions de guerre, peuvent être saisis, même s'ils appartiennent à des personnes privées, mais devront être restitués et les indemnités seront réglées à la paix.

ARTICLE 54.

Submarine cables connecting an occupied territory with a neutral territory shall not be seized or destroyed except in the case of absolute necessity. They must likewise be restored and compensation fixed when peace is made.

ARTICLE 54.

Les câbles sous-marins reliant un territoire occupé à un territoire neutre ne seront saisis ou détruits que dans le cas d'une nécessité absolue. Ils devront également être restitués et les indemnités seront réglées à la paix.

ARTICLE 55.

The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct.

ARTICLE 55.

L'Etat occupant ne se considèrera que comme administrateur et usufruitier des édifices publics, immeubles, forêts et exploitations agricoles appartenant à l'Etat ennemi et se trouvant dans le pays occupé. Il devra sauvegarder le fonds de ces propriétés et les administrer conformément aux règles de l'usufruit.

ARTICLE 56.

The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property.

All seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings.

ARTICLE 56.

Les biens des communes, ceux des établissements consacrés aux cultes, à la charité et à l'instruction, aux arts et aux sciences, même appartenant à l'Etat, seront traités comme la propriété privée.

Toute saisie, destruction ou dégradation intentionnelle de semblables établissements, de monuments historiques, d'œuvres d'art et de science, est interdite et doit être poursuivie.

CONVENTION RESPECTING THE RIGHTS AND DUTIES OF NEUTRAL POWERS AND PERSONS IN CASE OF WAR ON LAND.

Signed by the United States Delegates. Ratification advised by the Senate, March 10, 1908.

The Contracting Powers (see Final Act), with a view to laying down more clearly the rights and duties of neutral Powers in case of war on land and regulating the position of the belligerents who have taken refuge in neutral territory;

Being likewise desirous of defining the meaning of the term "neutral," pending the possibility of settling, in its entirety, the position of neutral individuals in their relations with the belligerents;

Have resolved to conclude a Convention to this effect, and have, in consequence, appointed the following as their Plenipotentiaries:

[For names of plenipotentiaries, see Final Act.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:—

CHAPTER I.—*The Rights and Duties of Neutral Powers.*

ARTICLE 1.

The territory of neutral Powers is inviolable.

ARTICLE 2.

Belligerents are forbidden to move troops or convoys of either munitions of war or supplies across the territory of a neutral Power.

ARTICLE 3.

Belligerents are likewise forbidden to:

(*a*) Erect on the territory of a neutral Power a wireless telegraphy station or other apparatus for the purpose of communicating with belligerent forces on land or sea;

(*b*) Use any installation of this kind established by them before the war on the territory of a neutral Power for purely military purposes, and which has not been opened for the service of public messages.

ARTICLE 4.

Corps of combatants cannot be formed nor recruiting agencies opened on the territory of a neutral Power to assist the belligerents.

ARTICLE 5.

A neutral Power must not allow any of the acts referred to in Articles 2 to 4 to occur on its territory.

It is not called upon to punish acts in violation of its neutrality unless the said acts have been committed on its own territory.

CHAPITRE I.—*Des Droits et des Devoirs des Puissances neutres.*

ARTICLE PREMIER.

Le territoire des Puissances neutres est inviolable.

ARTICLE 2.

Il est interdit aux belligérants de faire passer à travers le territoire d'une Puissance neutre des troupes ou des convois, soit de munition, soit d'approvisionnements.

ARTICLE 3.

Il est également interdit aux belligérants:

(*a*) d'installer sur le territoire d'une Puissance neutre une station radiotélégraphique ou tout appareil destiné à servir comme moyen de communication avec des forces belligérantes sur terre ou sur mer;

(*b*) d'utiliser toute installation de ce genre établie par eux avant la guerre sur le territoire de la Puissance neutre dans un but exclusivement militaire, et qui n'a pas été ouverte au service de la correspondance publique.

ARTICLE 4.

Des corps de combattants ne peuvent être formés, ni des bureaux d'enrôlement ouverts, sur le territoire d'une Puissance neutre au profit des belligérants.

ARTICLE 5.

Une Puissance neutre ne doit tolérer sur son territoire aucun des actes visés par les articles 2 à 4.

Elle n'est tenue de punir des actes contraires à la neutralité que si ces actes ont été commis sur son propre territoire.

ARTICLE 6.

The responsibility of a neutral Power is not engaged by the fact of persons crossing the frontier separately to offer their services to one of the belligerents.

ARTICLE 7.

A neutral Power is not called upon to prevent the export or transport, on behalf of one or other of the belligerents, of arms, munitions of war, or, in general, of anything which can be of use to an army or a fleet.

ARTICLE 8.

A neutral Power is not called upon to forbid or restrict the use on behalf of the belligerents of telegraph or telephone cables or of wireless telegraphy apparatus belonging to it or to Companies or private individuals.

ARTICLE 9.

Every measure of restriction or prohibition taken by a neutral Power in regard to the matters referred to in Articles 7 and 8 must be impartially applied by it to both belligerents.

A neutral Power must see to the same obligation being observed by Companies or private individuals owning telegraph or telephone cables or wireless telegraphy apparatus.

ARTICLE 10.

The fact of a neutral Power resisting, even by force, attempts to violate its neutrality can not be regarded as a hostile act.

ARTICLE 6.

La responsabilité d'une Puissance neutre n'est pas engagée par le fait que des individus passent isolément la frontière pour se mettre au service de l'un des belligérants.

ARTICLE 7.

Une Puissance neutre n'est pas tenue d'empêcher l'exportation ou le transit, pour le compte de l'un ou de l'autre des belligérants, d'armes, de munitions, et, en général, de tout ce qui peut être utile à une armée ou à une flotte.

ARTICLE 8.

Une Puissance neutre n'est pas tenue d'interdire ou de restreindre l'usage, pour les belligérants, des câbles télégraphiques ou téléphoniques, ainsi que des appareils de télégraphie sans fil, qui sont, soit sa propriété, soit celle de compagnies ou de particuliers.

ARTICLE 9.

Toutes mesures restrictives ou prohibitives prises par une Puissance neutre à l'égard des matières visées par les articles 7 et 8 devront être uniformément appliquées par elle aux belligérants.

La Puissance neutre veillera au respect de la même obligation par les compagnies ou particuliers propriétaires de câbles télégraphiques ou téléphoniques ou d'appareils de télégraphie sans fil.

ARTICLE 10.

Ne peut être considéré comme un acte hostile le fait, par une Puissance neutre, de repousser, même par la force, les atteintes à sa neutralité.

CHAPTER II.—*Belligerents Interned and Wounded tended in Neutral Territory.*

ARTICLE 11.

A neutral Power which receives on its territory troops belonging to the belligerent armies shall intern them, as far as possible, at a distance from the theatre of war.

It may keep them in camps and even confine them in fortresses or in places set apart for this purpose.

It shall decide whether officers can be left at liberty on giving their parole not to leave the neutral territory without permission.

ARTICLE 12.

In the absence of a special Convention to the contrary, the neutral Power shall supply the interned with the food, clothing, and relief required by humanity.

At the conclusion of peace the expenses caused by the internment shall be made good.

ARTICLE 13.

A neutral Power which receives escaped prisoners of war shall leave them at liberty. If it allows them to remain in its territory it may assign them a place of residence.

The same rule applies to prisoners of war brought by troops taking refuge in the territory of a neutral Power.

ARTICLE 14.

A neutral Power may authorize the passage into its territory of the sick and wounded belonging to

CHAPITRE II.—*Des belligérants internés et des blessés soignés chez les neutres.*

ARTICLE 11.

La Puissance neutre qui reçoit sur son territoire des troupes appartenant aux armées belligérantes, les internera, autant que possible, loin du théâtre de la guerre.

Elle pourra les garder dans des camps, et même les enfermer dans des forteresses ou dans des lieux appropriés à cet effet.

Elle décidera si les officiers peuvent être laissés libres en prenant l'engagement sur parole de ne pas quitter le territoire neutre sans autorisation.

ARTICLE 12.

A défaut de convention spéciale, la Puissance neutre fournira aux internés les vivres, les habillements et les secours commandés par l'humanité.

Bonification sera faite, à la paix, des frais occasionnés par l'internement.

ARTICLE 13.

La Puissance neutre qui reçoit des prisonniers de guerre évadés les laissera en liberté. Si elle tolère leur séjour sur son territoire, elle peut leur assigner une résidence.

La même disposition est applicable aux prisonniers de guerre amenés par des troupes se réfugiant sur le territoire de la Puissance neutre.

ARTICLE 14.

Une Puissance neutre pourra autoriser le passage sur son territoire des blessés ou malades ap-

the belligerent armies, on condition that the trains bringing them shall carry neither war personnel nor material. In such a case, the neutral Power is bound to take whatever measures of safety and control are necessary for the purpose.

The sick or wounded brought under these conditions into neutral territory by one of the belligerents, and belonging to the hostile party, must be guarded by the neutral Power so as to ensure their not taking part again in the military operations. The same duty shall devolve on the neutral State with regard to wounded or sick of the other army who may be committed to its care.

ARTICLE 15.

The Geneva Convention applies to sick and wounded interned in neutral territory.

CHAPTER III.—*Neutral Persons.*

ARTICLE 16.

The nationals of a State which is not taking part in the war are considered as neutrals.

ARTICLE 17.

A neutral cannot avail himself of his neutrality:

(*a*) If he commits hostile acts against a belligerent;

(*b*) If he commits acts in favor of a belligerent, particularly if he voluntarily enlists in the ranks of the armed force of one of the parties.

In such a case, the neutral shall not be more severely treated by the belligerent as against whom he has abandoned his neutrality

partenant aux armées belligérantes, sous la réserve que les trains qui les amèneront ne transporteront ni personnel, ni matériel de guerre. En pareil cas, la Puissance neutre est tenue de prendre les mesures de sûreté et de contrôle nécessaires à cet effet.

Les blessés ou malades amenés dans ces conditions sur le territoire neutre par un des belligérants, et qui appartiendraient à la partie adverse, devront être gardés par la Puissance neutre de manière qu'ils ne puissent de nouveau prendre part aux opérations de la guerre. Cette Puissance aura les mêmes devoirs quant aux blessés ou malades de l'autre armée qui lui seraient confiés.

ARTICLE 15.

La Convention de Genève s'applique aux malades et aux blessés internés sur territoire neutre.

CHAPITRE III.—*Des personnes neutres.*

ARTICLE 16.

Sont considérés comme neutres les nationaux d'un Etat qui ne prend pas part à la guerre.

ARTICLE 17.

Un neutre ne peut se prévaloir de sa neutralité:

(*a*) s'il commet des actes hostiles contre un belligérant;

(*b*) s'il commet des actes en faveur d'un belligérant, notamment s'il prend volontairement du service dans les rangs de la force armée de l'une des Parties.

En pareil cas, le neutre ne sera pas traité plus rigoureusement par le belligérant contre lequel il s'est départi de la neutralité que ne

than a national of the other belligerent State could be for the same act.

ARTICLE 18.

The following acts shall not be considered as committed in favor of one belligerent in the sense of Article 17, letter (*b*):

(*a*) Supplies furnished or loans made to one of the belligerents, provided that the person who furnishes the supplies or who makes the loans lives neither in the territory of the other party nor in the territory occupied by him, and that the supplies do not come from these territories;

(*b*) Services rendered in matters of police or civil administration.

CHAPTER IV.—*Railway Material.*

ARTICLE 19.

Railway material coming from the territory of neutral Powers, whether it be the property of the said Powers or of Companies or private persons, and recognizable as such, shall not be requisitioned or utilized by a belligerent except where and to the extent that it is absolutely necessary. It shall be sent back as soon as possible to the country of origin.

A neutral Power may likewise, in case of necessity, retain and utilize to an equal extent material coming from the territory of the belligerent Power.

Compensation shall be paid by one party or the other in proportion to the material used, and to the period of usage.

pourrait l'être, à raison du même fait, un national de l'autre Etat belligérant.

ARTICLE 18.

Ne seront pas considérés comme actes commis en faveur d'un des belligérants, dans le sens de l'article 17, lettre (*b*):

(*a*) les fournitures faites ou les emprunts consentis à l'un des belligérants, pourvu que le fournisseur ou le prêteur n'habite ni le territoire de l'autre Partie, ni le territoire occupé par elle, et que les fournitures ne proviennent pas de ces territoires;

(*b*) les services rendus en matière de police ou d'administration civile.

CHAPITRE IV.—*Du matériel des chemins de fer.*

ARTICLE 19.

Le matériel des chemins de fer provenant du territoire de Puissances neutres, qu'il appartienne à ces Puissances ou à des sociétés ou personnes privées, et reconnaissable comme tel, ne pourra être réquisitionné et utilisé par un belligérant que dans le cas et la mesure où l'exige une impérieuse nécessité. Il sera renvoyé aussitôt que possible dans le pays d'origine.

La Puissance neutre pourra de même, en cas de nécessité, retenir et utiliser, jusqu'à due concurrence, le matériel provenant du territoire de la Puissance belligérante.

Une indemnité sera payée de part et d'autre, en proportion du matériel utilisé et de la durée de l'utilisation.

CHAPTER V.—*Final Provisions.*

ARTICLE 20.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

* * * *

CHAPITRE V.—*Dispositions finales.*

ARTICLE 20.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

* * * *

(Five articles follow, Nos. 21 to 25, similar to Articles 3 to 7 of the Convention for the Recovery of Contract Debts.)

CONVENTION RELATIVE TO THE LAYING OF AUTOMATIC SUBMARINE CONTACT MINES.

Signed by the United States Delegates. Ratification advised by the Senate, March 10, 1908.

The Contracting Powers (see Final Act) inspired by the principle of the freedom of sea routes, the common highways of all nations;

Seeing that, although the existing position of affairs makes it impossible to forbid the employment of automatic submarine contact mines, it is nevertheless desirable to restrict and regulate their employment in order to mitigate the severity of war and to ensure, as far as possible, to peaceful navigation the security to which it is entitled, despite the existence of war;

Until such time as it is found possible to formulate rules on the subject which shall ensure to the interests involved all the guarantees desirable;

Have resolved to conclude a Convention for this purpose, and have appointed the following as their Plenipotentiaries:

[For names of Plenipotentiaries, see Final Act.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1.

It is forbidden:

1. To lay unanchored automatic contact mines, except when they are so constructed as to become harmless one hour at most after the person who laid them ceases to control them;

ARTICLE PREMIER.

Il est interdit:

1°. de placer des mines automatiques de contact non amarrées, à moins qu'elles ne soient construites de manière à devenir inoffensives une heure au maximum après que celui qui les a placées en aura perdu le contrôle;

2. To lay anchored automatic contact mines which do not become harmless as soon as they have broken loose from their moorings;

3. To use torpedoes which do not become harmless when they have missed their mark.

ARTICLE 2.

It is forbidden to lay automatic contact mines off the coast and ports of the enemy, with the sole object of intercepting commercial shipping.

ARTICLE 3.

When anchored automatic contact mines are employed, every possible precaution must be taken for the security of peaceful shipping.

The belligerents undertake to do their utmost to render these mines harmless within a limited time, and, should they cease to be under surveillance, to notify the danger zones as soon as military exigencies permit, by a notice addressed to ship owners, which must also be communicated to the Governments through the diplomatic channel.

ARTICLE 4.

Neutral Powers which lay automatic contact mines off their coasts must observe the same rules and take the same precautions as are imposed on belligerents.

The neutral Power must inform ship-owners, by a notice issued in advance, where automatic

2°. de placer des mines automatiques de contact amarrées, qui ne deviennent pas inoffensives dès qu'elles auront rompu leurs amarres;

3°. d'employer des torpilles, qui ne deviennent pas inoffensives lorsqu'elles auront manqué leur but.

ARTICLE 2.

Il est interdit de placer des mines automatiques de contact devant les côtes et les ports de l'adversaire, dans le seul but d'intercepter la navigation de commerce.

ARTICLE 3.

Lorsque les mines automatiques de contact amarrées sont employées, toutes les précautions possibles doivent être prises pour la sécurité de la navigation pacifique.

Les beligérants s'engagent à pourvoir, dans la mesure du possible, à ce que ces mines deviennent inoffensives après un laps de temps limité, et, dans le cas où elles cesseraient d'être surveillées, à signaler les régions dangereuses, aussitôt que les exigences militaires le permettront, par un avis à la navigation, qui devra être aussi communiqué aux Gouvernements par la voie diplomatique.

ARTICLE 4.

Toute Puissance neutre qui place des mines automatiques de contact devant ses côtes, doit observer les mêmes règles et prendre les mêmes précautions que celles qui sont imposées aux belligérants.

La Puissance neutre doit faire connaître à la navigation, par un avis préalable, les régions où se-

contact mines have been laid. This notice must be communicated at once to the Governments through the diplomatic channel.

ARTICLE 5.

At the close of the war, the Contracting Powers undertake to do their utmost to remove the mines which they had laid, each Power removing its own mines.

As regards anchored automatic contact mines laid by one of the belligerents off the coast of the other, their position must be notified to the other party by the Power which laid them, and each Power must proceed with the least possible delay to remove the mines in its own waters.

ARTICLE 6.

The Contracting Powers which do not at present own perfected mines of the pattern contemplated in the present Convention, and which, consequently, could not at present carry out the rules laid down in Articles 1 and 3, undertake to convert the *matériel* of their mines as soon as possible, so as to bring it into conformity with the foregoing requirements.

ARTICLE 7.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

ront mouillées des mines automatiques de contact. Cet avis devra être communiqué d'urgence aux Gouvernements par voie diplomatique.

ARTICLE 5.

A la fin de la guerre, les Puissances contractantes s'engagent à faire tout ce qui dépend d'elles pour enlever, chacune de son côté, les mines qu'elles ont placées.

Quant aux mines automatiques de contact amarrées que l'un des belligérants aurait posées le long des côtes de l'autre, l'emplacement en sera notifié à lautre partie par la Puissance qui les a posées et chaque Puissance devra procéder dans le plus bref délai à l'enlèvement des mines qui se trouvent dans ses eaux.

ARTICLE 6.

Les Puissances contractantes, qui ne disposent pas encore de mines perfectionnées telles qu'elles sont prévues dans la présente Convention, et qui, par conséquent, ne sauraient actuellement se conformer aux règles établies dans les articles 1 et 3, s'engagent à transformer, aussitôt que possible, leur matérial de mines, afin qu'il réponde aux prescriptions susmentionnées.

ARTICLE 7.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

* * * * * * * *

(Three articles follow, Nos. 8 to 10, similar to Articles 3 to 5 of the Convention for the Recovery of Contract Debts.)

ARTICLE 11.

The present Convention shall remain in force for seven years, dating from the sixtieth day after the date of the first deposit of ratifications.

Unless denounced, it shall continue in force after the expiration of this period.

The denunciation shall be notified in writing to the Netherlands Government, which shall at once communicate a duly certified copy of the notification to all the Powers, informing them of the date on which it was receiveds.

The denunciation shall only have effect in regard to the notifying Power, and six months after the notification has reached the Netherlands Government.

ARTICLE 11.

La présente Convention aura une durée de sept ans à partir du soixantième jour après la date du premier dépôt de ratifications.

Sauf dénonciation, elle continuera d'être en vigueur après l'expiration de ce délai.

La dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les Puissances, en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et six mois après que la notification en sera parvenue au Gouvernement des Pays-Bas.

ARTICLE 12.

The Contracting Powers undertake to reopen the question of the employment of automatic contact mines six months before the expiration of the period contemplated in the first paragraph of the preceding Article, in the event of the question not having been already reopened and settled by the Third Peace Conference.

If the Contracting Powers conclude a fresh Convention relative to the employment of mines, the present Convention shall cease to be applicable from the moment it comes into force.

ARTICLE 12.

Les Puissances contractantes s'engagent à reprendre la question de l'emploi des mines automatiques de contact six mois avant l'expiration du terme prévu par l'alinéa premier de l'article précédent, au cas où elle n'aurait pas été reprise et résolue à une date antérieure par la troisième Conférence de la Paix.

Si les Puissances contractantes concluent une nouvelle Convention relative à l'emploi des mines, dès son entrée en vigueur, la présente Convention cessera d'être applicable.

* * * * * * * *

(The final article, No. 13, is similar to Article 7 of the Convention for the Recovery of Contract Debts.)

CONVENTION RESPECTING BOMBARDMENT BY NAVAL FORCES IN TIME OF WAR.

Signed by the United States Delegates. Ratification advised by the Senate, March 10, 1908.

The Contracting Powers (see Final Act) animated by the desire to realize the wish expressed by the First Peace Conference respecting the bombardment by naval forces of undefended ports, towns, and villages;

Whereas it is expedient that bombardments by naval forces should be subject to rules of general application which would safeguard the rights of the inhabitants and assure the preservation of the more important buildings, by applying as far as possible to this operation of war the principles of the Regulation of 1899 respecting the Laws and Customs of Land War;

Actuated, accordingly, by the desire to serve the interests of humanity and to diminish the severity and disasters of war:

Have resolved to conclude a Convention to this effect, and have, for this purpose, appointed the following as their Plenipotentiaries:

[For names of Plenipotentiaries, see Final Act.]

Who, after depositing their full powers, found in good and due form, have agreed upon the following provisions:

CHAPTER I.—*The Bombardment of Undefended Ports, Towns, Villages, Dwellings, or Buildings.*

ARTICLE 1.

The bombardment by naval forces of undefended ports, towns, villages, dwellings, or buildings is forbidden.

A place cannot be bombarded solely because automatic submarine contact mines are anchored off the harbor.

ARTICLE 2.

Military works, military or naval establishments, depôts of arms or war *matériel*, workshops or plant which could be utilized for the needs of the hostile fleet or army, and the ships of war in the harbor, are not, however, included in this prohibition. The com-

CHAPITRE I.—*Du bombardement des ports, villes, villages, habitations, ou bâtiments non défendus.*

ARTICLE PREMIER.

Il est interdit de bombarder, par des forces navales, des ports, villes, villages, habitations ou bâtiments, qui ne sont pas défendus.

Une localité ne peut pas être bombardée à raison du seul fait que, devant son port, se trouvent mouillées des mines sous-marines automatiques de contact.

ARTICLE 2.

Toutefois, ne sont pas compris dans cette interdiction les ouvrages militaires, établissements militaires ou navals, dépôts d'armes ou de matériel de guerre, ateliers et installations propres à être utilisés pour les besoins de la flotte ou de l'armée ennemie, et les navires de

mander of a naval force may destroy them with artillery, after a summons followed by a reasonable time of waiting, if all other means are impossible, and when the local authorities have not themselves destroyed them within the time fixed.

He incurs no responsibility for any unavoidable damage which may be caused by a bombardment under such circumstances.

If for military reasons immediate action is necessary, and no delay can be allowed the enemy, it is understood that the prohibition to bombard the undefended town holds good, as in the case given in paragraph 1, and that the commander shall take all due measures in order that the town may suffer as little harm as possible.

ARTICLE 3.

After due notice has been given, the bombardment of undefended ports, towns, villages, dwellings, or buildings may be commenced, if the local authorities, after a formal summons has been made to them, decline to comply with requisitions for provisions or supplies necessary for the immediate use of the naval force before the place in question.

These requisitions shall be in proportion to the resources of the place. They shall only be demanded in the name of the commander of the said naval force, and they shall, as far as possible, be paid for in cash; if not, they shall be evidenced by receipts.

guerre se trouvant dans le port. Le commandant d'une force navale pourra, après sommation avec délai raisonnable, les détruire par le canon, si tout autre moyen est impossible et lorsque les autorités locales n'auront pas procédé à cette destruction dans le délai fixé.

Il n'encourt aucune responsabilité dans ce cas pour les dommages involontaires, qui pourraient être occasionnés par le bombardement.

Si des nécessités militaires, exigeant une action immédiate, ne permettaient pas d'accorder de délai, il reste entendu que l'interdiction de bombarder la ville non défendue subsiste comme dans le cas énoncé dans l'alinéa 1er et que le commandant prendra toutes les dispositions voulues pour qu'il en résulte pour cette ville le moins d'inconvénients possible.

ARTICLE 3.

Il peut, après notification expresse, être procédé au bombardement des ports, villes, villages, habitations ou bâtiments non défendus, si les autorités locales, mises en demeure par une sommation formelle, refusent d'obtempérer à des réquisitions de vivres ou d'approvisionnements nécessaires au besoin présent de la force navale qui se trouve devant la localité.

Ces réquisitions seront en rapport avec les ressources de la localité. Elles ne seront réclamées qu'avec l'autorisation du commandant de ladite force navale et elles seront, autant que possible, payées au comptant; sinon elles seront constatées par des reçus.

ARTICLE 4.

Undefended ports, towns, villages, dwellings, or buildings may not be bombarded on account of failure to pay money contributions.

CHAPTER II.—*General Provisions.*

ARTICLE 5.

In bombardments by naval forces all the necessary measures must be taken by the commander to spare as far as possible sacred edifices, buildings used for artistic, scientific, or charitable purposes, historic monuments, hospitals, and places where the sick or wounded are collected, on condition that they are not used at the same time for military purposes.

It is the duty of the inhabitants to indicate such monuments, edifices, or places by visible signs, which shall consist of large stiff rectangular panels divided diagonally into two colored triangular portions, the upper portion black, the lower portion white.

ARTICLE 6.

If the military situation permits, the commander of the attacking naval force, before commencing the bombardment, must do his utmost to warn the authorities.

ARTICLE 7.

A town or place, even when taken by storm, may not be pillaged.

ARTICLE 4.

Est interdit le bombardement, pour le non paiement des contributions en argent, des ports, villes, villages, habitations ou bâtiments, non défendus.

CHAPITRE II.—*Dispositions générales.*

ARTICLE 5.

Dans le bombardement par des forces navales, toutes les mesures nécessaires doivent être prises par le commandant pour épargner, autant que possible, les édifices consacrés aux cultes, aux arts, aux sciences et à la bienfaisance, les monuments historiques, les hôpitaux et les lieux de rassemblement de malades ou de blessés, à condition qu'ils ne soient pas employés en même temps à un but militaire.

Le devoir des habitants est de désigner ces monuments, ces édifices ou lieux de rassemblement, par des signes visibles, qui consisteront en grands panneaux rectangulaires rigides, partagés, suivant une des diagonales, en deux triangles de couleur, noire en haut et blanche en bas.

ARTICLE 6.

Sauf le cas où les exigences militaires ne le permettraient pas, le commandant de la force navale assaillante doit, avant d'entreprendre le bombardement, faire tout ce qui dépend de lui pour avertir les autorités.

ARTICLE 7.

Il est interdit de livrer au pillage une ville ou localité même prise d'assaut.

CHAPTER III.—*Final Provisions.*

ARTICLE 8.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

CHAPITRE III.—*Dispositions finales.*

ARTICLE 8.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

* * * * * * * *

(Five articles follow, Nos. 9 to 13, similar to Articles 3 to 7 of the Convention for the Recovery of Contract Debts.)

CONVENTION FOR THE ADAPTATION TO NAVAL WAR OF THE PRINCIPLES OF THE GENEVA CONVENTION.

Signed by the United States delegates. Ratification advised by the Senate March 10, 1908.

The Contracting Powers (see Final Act) animated alike by the desire to diminish, as far as depends on them, the inevitable evils of war;

And wishing with this object to adapt to maritime warfare the principles of the Geneva Convention of the 6th July, 1906;

Have resolved to conclude a Convention for the purpose of revising the Convention of the 29th July, 1899, relative to this question, and have appointed the following as their Plenipotentiaries:

[For names of Plenipotentiaries see Final Act.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1.

Military hospital-ships, that is to say, ships constructed or assigned by States specially and solely with a view to assisting the wounded, sick, and shipwrecked, the names of which have been communicated to the belligerent Powers at the commencement or during the course of hostilities, and in any case before they are employed, shall be respected, and cannot be captured while hostilities last.

These ships, moreover, are not on the same footing as warships as regards their stay in a neutral port.

ARTICLE PREMIER.

Les bâtiments-hôpitaux militaires, c'est-à-dire les bâtiments construits ou aménagés par les Etats spécialement et uniquement en vue de porter secours aux blessés, malades et naufragés, et dont les noms auront été communiqués, à l'ouverture ou au cours des hostilités, en tout cas avant toute mise en usage, aux Puissances belligérantes, sont respectés et ne peuvent être capturés pendant la durée des hostilités.

Ces bâtiments ne sont pas non plus assimilés aux navires de guerre au point de vue de leur séjour dans un port neutre.

ARTICLE 2.

Hospital-ships, equipped wholly or in part at the expense of private individuals or officially recognized relief societies, shall be likewise respected and exempt from capture, if the belligerent Power to whom they belong has given them an official commission and has notified their names to the hostile Power at the commencement of or during hostilities, and in any case before they are employed.

These ships must be provided with a certificate from the competent authorities declaring that the vessels have been under their control while fitting out and on final departure.

ARTICLE 3.

Hospital-ships, equipped wholly or in part at the expense of private individuals or officially recognized societies of neutral countries, shall be respected and exempt from capture, on condition that they are placed under the control of one of the belligerents, with the previous consent of their own Government and with the authorization of the belligerent himself, and that the latter has notified their name to his adversary at the commencement of or during hostilities, and in any case, before they are employed.

ARTICLE 4.

The ships mentioned in Articles 1, 2, and 3 shall afford relief and assistance to the wounded, sick, and shipwrecked of the belligerents without distinction of nationality.

The Governments undertake not to use these ships for any military purpose.

ARTICLE 2.

Les bâtiments hospitaliers, équipés en totalité ou en partie aux frais des particuliers ou des sociétés de secours officiellement reconnues, sont également respectés et exempts de capture, si la Puissance belligérante dont ils dépendent, leur a donné une commission officielle et en a notifié les noms à la Puissance adverse à l'ouverture ou au cours des hostilités, en tout cas avant toute mise en usage.

Ces navires doivent être porteurs d'un document de l'autorité compétente déclarant qu'ils ont été soumis à son contrôle pendant leur armement et à leur départ final.

ARTICLE 3.

Les bâtiments hospitaliers, équipés en totalité ou en partie aux frais des particuliers ou des sociétés officiellement reconnues de pays neutres, sont respectés et exempts de capture, à condition qu'ils se soient mis sous la direction de l'un des belligérants, avec l'assentiment préalable de leur propre Gouvernement et avec l'autorisation du belligérant lui-même et que ce dernier en ait notifié le nom à son adversaire dès l'ouverture ou dans le cours des hostilités, en tout cas, avant tout emploi.

ARTICLE 4.

Les bâtiments qui sont mentionnés dans les articles 1, 2 et 3, porteront secours et assistance aux blessés, malades et naufragés des belligérants sans distinction de nationalité.

Les Gouvernements s'engagent à n'utiliser ces bâtiments pour aucun but militaire.

These vessels must in no wise hamper the movements of the combatants.

During and after an engagement they will act at their own risk and peril.

The belligerents shall have the right to control and search them; they can refuse to help them, order them off, make them take a certain course, and put a Commissioner on board; they can even detain them, if important circumstances require it.

As far as possible, the belligerents shall enter in the log of the hospital-ships the orders which they give them.

ARTICLE 5.

Military hospital-ships shall be distinguished by being painted white outside with a horizontal band of green about a metre and a-half (five feet) in breadth.

The ships mentioned in Articles 2 and 3 shall be distinguished by being painted white outside with a horizontal band of red about a metre and a-half (five feet) in breadth.

The boats of the ships above mentioned, as also small craft which may be used for hospital work, shall be distinguished by similar painting.

All hospital-ships shall make themselves known by hoisting, with their national flag, the white flag with a red cross provided by the Geneva Convention, and further, if they belong to a neutral State, by flying at the mainmast the national flag of the belligerent under whose control they are placed.

Ces bâtiments ne devront gêner en aucune manière les mouvements des combattants.

Pendant et après le combat, ils agiront à leurs risques et périls.

Les belligérants auront sur eux le droit de contrôle et de visite; ils pourront refuser leur concours, leur enjoindre de s'éloigner, leur imposer une direction déterminée et mettre à bord un commissaire, même les détenir, si la gravité des circonstances l'exigeait.

Autant que possible, les belligérants inscriront sur le journal de bord des bâtiments hospitaliers les ordres qu'ils leur donneront.

ARTICLE 5.

Les bâtiments-hôpitaux militaires seront distingués par une peinture extérieure blanche avec une bande horizontale verte d'un mètre et demi de largeur environ.

Les bâtiments qui sont mentionnés dans les articles 2 et 3, seront distingués par une peinture extérieure blanche avec une bande horizontale rouge d'un mètre et demi de largeur environ.

Les embarcations des bâtiments qui viennent d'être mentionnés, comme les petits bâtiments qui pourront être affectés au service hospitalier, se distingueront par une peinture analogue.

Tous les bâtiments hospitaliers se feront reconnaître en hissant, avec leur pavillon national, le pavillon blanc à croix-rouge prévu par la Convention de Genève et, en outre, s'ils ressortissent à un Etat neutre, en arborant au grand mât le pavillon national du belligérant sous la direction duquel ils se sont placés.

Hospital-ships which, in the terms of Article 4, are detained by the enemy, must haul down the national flag of the belligerent to whom they belong.

The ships and boats above mentioned which wish to ensure by night the freedom from interference to which they are entitled, must, subject to the assent of the belligerent they are accompanying, take the necessary measures to render their special painting sufficiently plain.

ARTICLE 6.

The distinguishing signs referred to in Article 5 can only be used, whether in time of peace or war, for protecting or indicating the ships therein mentioned.

ARTICLE 7.

In the case of a fight on board a war-ship, the sick-wards shall be respected and spared as far as possible.

The said sick-wards and the *matériel* belonging to them remain subject to the laws of war; they cannot, however, be used for any purpose other than that for which they were originally intended, so long as they are required for the sick and wounded.

The commander, however, into whose power they have fallen may apply them to other purposes, if the military situation requires it, after seeing that the sick and wounded on board are properly provided for.

ARTICLE 8.

Hospital-ships and sick-wards of vessels are no longer entitled to protection if they are employed for the purpose of injuring the enemy.

Les bâtiments hospitaliers qui, dans les termes de l'article 4, sont détenus par l'ennemi, auront à rentrer le pavillon national du belligérant dont ils relèvent.

Les bâtiments et embarcations ci-dessus mentionnés, qui veulent s'assurer la nuit le respect auquel ils ont droit, ont, avec l'assentiment du belligérant qu'ils accompagnent, à prendre les mesures nécessaires pour que la peinture qui les caractérise soit suffisamment apparente.

ARTICLE 6.

Les signes distinctifs prévus à l'article 5 ne pourront être employés, soit en temps de paix, soit en temps de guerre, que pour protéger ou désigner les bâtiments qui y sont mentionnés.

ARTICLE 7.

Dans le cas d'un combat à bord d'un vaisseau de guerre, les infirmeries seront respectées et ménagées autant que faire se pourra.

Ces infirmeries et leur matériel demeurent soumis aux lois de la guerre, mais ne pourront être détournés de leur emploi, tant qu'ils seront nécessaires aux blessés et malades.

Toutefois le commandant, qui les a en son pouvoir, a la faculté d'en disposer, en cas de nécessité militaire importante, en assurant au préalable le sort des blessés et malades qui s'y trouvent.

ARTICLE 8.

La protection due aux bâtiments hospitaliers et aux infirmeries des vaisseaux cesse si l'on en use pour commettre des actes nuisibles à l'ennemi.

The fact of the staff of the said ships and sick-wards being armed for maintaining order and for defending the sick and wounded, and the presence of wireless telegraphy apparatus on board, is not a sufficient reason for withdrawing protection.

ARTICLE 9.

Belligerents may appeal to the charity of the commanders of neutral merchant-ships, yachts, or boats to take on board and tend the sick and wounded.

Vessels responding to this appeal, and also vessels which have of their own accord rescued sick, wounded, or shipwrecked men, shall enjoy special protection and certain immunities. In no case can they be captured for having such persons on board, but, apart from special undertakings that have been made to them, they remain liable to capture for any violations of neutrality they may have committed.

ARTICLE 10.

The religious, medical, and hospital staff of any captured ship is inviolable, and its members cannot be made prisoners of war. On leaving the ship they take away with them the objects and surgical instruments which are their own private property.

This staff shall continue to discharge its duties while necessary, and can afterwards leave, when the Commander-in-chief considers it possible.

The belligerents must guarantee to the said staff, when it has fallen into their hands, the same allow-

N'est pas considéré comme étant de nature à justifier le retrait de la protection le fait que le personnel de ces bâtiments et infirmeries est armé pour le maintien de l'ordre et pour la défense des blessés ou malades, ainsi que le fait de la présence à bord d'une installation radio-télégraphique.

ARTICLE 9.

Les belligérants pourront faire appel au zèle charitable des commandants de bâtiments de commerce, yachts ou embarcations neutres, pour prendre à bord et soigner des blessés ou des malades.

Les bâtiments qui auront répondu à cet appel ainsi que ceux qui spontanément auront recueilli des blessés, des malades ou des naufragés, jouiront d'une protection spéciale et de certaines immunités. En aucun cas, ils ne pourront être capturés pour le fait d'un tel transport; mais, sauf les promesses qui leur auraient été faites, ils restent exposés à la capture pour les violations de neutralité qu'ils pourraient avoir commises.

ARTICLE 10.

Le personnel religieux, médical et hospitalier de tout bâtiment capturé est inviolable et ne peut être fait prisonnier de guerre. Il emporte, en quittant le navire, les objets et les instruments de chirurgie qui sont sa propriété particulière.

Ce personnel continuera à remplir ses fonctions tant que cela sera nécessaire et il pourra ensuite se retirer, lorsque le commandant en chef le jugera possible.

Les belligérants doivent assurer à ce personnel tombé entre leurs mains, les mêmes allocations et la

ances and pay which are given to the staff of corresponding rank in their own navy.

ARTICLE 11.

Sailors and soldiers on board, when sick or wounded, as well as other persons officially attached to fleets or armies, whatever their nationality, shall be respected and tended by the captors.

ARTICLE 12.

Any war-ship belonging to a belligerent may demand that sick, wounded, or shipwrecked men on board military hospital-ships, hospital-ships belonging to relief societies or to private individuals, merchant-ships, yachts, or boats, whatever the nationality of these vessels, should be handed over.

ARTICLE 13.

If, sick, wounded, or shipwrecked persons are taken on board a neutral war-ship, every possible precaution must be taken that they do not again take part in the operations of the war.

ARTICLE 14.

The shipwrecked, wounded, or sick of one of the belligerents who fall into the power of the other belligerent are prisoners of war. The captor must decide, according to circumstances, whether to keep them, send them to a port of his own country, to a neutral port, or even to an enemy port. In this last case, prisoners thus repatriated cannot serve again while the war lasts.

même solde qu'au personnel des mêmes grades de leur propre marine.

ARTICLE 11.

Les marins et les militaires embarqués, et les autres personnes officiellement attachées aux marines ou aux armées, blessés ou malades, à quelque nation qu'ils appartiennent, seront respectés et soignés par les capteurs.

ARTICLE 12.

Tout vaisseau de guerre d'une Partie belligérante peut réclamer la remise des blessés, malades ou naufragés, qui sont à bord de bâtiments-hôpitaux militaires, de bâtiments hospitaliers de société de secours ou de particuliers, de navires de commerce, yachts et embarcations, quelle que soit la nationalité de ces bâtiments.

ARTICLE 13.

Si des blessés, malades ou naufragés sont recueillis à bord d'un vaisseau de guerre neutre, il devra être pourvu, dans la mesure du possible, à ce qu'ils ne puissent pas de nouveau prendre part aux opérations de la guerre.

ARTICLE 14.

Sont prisonniers de guerre les naufragés, blessés ou malades, d'un belligérant qui tombent au pouvoir de l'autre. Il appartient à celui-ci de décider, suivant les circonstances, s'il convient de les garder, de les diriger sur un port de sa nation, sur un port neutre ou même sur un port de l'adversaire. Dans ce dernier cas, les prisonniers ainsi rendus à leur pays ne pourront servir pendant la durée de la guerre.

ARTICLE 15.

The shipwrecked, sick, or wounded, who are landed at a neutral port with the consent of the local authorities, must, unless an arrangement is made to the contrary between the neutral State and the belligerent States, be guarded by the neutral State so as to prevent them again taking part in the operations of the war.

The expenses of tending them in hospital and interning them shall be borne by the State to which the shipwrecked, sick, or wounded persons belong.

ARTICLE 15.

Les naufragés, blessés ou malades, qui sont débarqués dans un port neutre, du consentement de l'autorité locale, devront, à moins d'un arrangement contraire de l'Etat neutre avec les Etats belligérants, être gardés par l'Etat neutre de manière qu'ils ne puissent pas de nouveau prendre part aux opérations de la guerre.

Le frais d'hospitalisation et d'internement seront supportés par l'Etat dont relèvent les naufragés, blessés ou malades.

ARTICLE 16.

After every engagement, the two belligerents, so far as military interests permit, shall take steps to look for the shipwrecked, sick, and wounded, and to protect them, as well as the dead, against pillage and ill treatment.

They shall see that the burial, whether by land or sea, or cremation of the dead shall be preceded by a careful examination of the corpse.

ARTICLE 16.

Aprés chaque combat, les deux Parties belligérantes, en tant que les intérêts militaires le comportent, prendront des mesures pour rechercher les naufragés, les blessés et les malades et pour les faire protéger, ainsi que les morts, contre le pillage et les mauvais traitements.

Elles veilleront à ce que l'inhumation, l'immersion ou l'incinération des morts soit précédée d'un examen attentif de leurs cadavres.

ARTICLE 17.

Each belligerent shall send, as early as possible, to the authorities of their country, navy, or army the military marks or documents of identity found on the dead and the description of the sick and wounded picked up by him.

The belligerents shall keep each other informed as to internments and transfers as well as to the admissions into hospital and deaths which have occurred among the

ARTICLE 17.

Chaque belligérant enverra, dès qu'il sera possible, aux autorités de leur pays, de leur marine ou de leur armée, les marques ou pièces militaires d'identité trouvées sur les morts et l'état nominatif des blessés ou malades recueillis par lui.

Les belligérants se tiendront réciproquement au courant des internements et des mutations, ainsi que des entrées dans les hôpitaux et des décès survenus parmi les

sick and wounded in their hands. They shall collect all the objects of personal use, valuables, letters, &c., which are found in the captured ships, or which have been left by the sick or wounded who died in hospital, in order to have them forwarded to the persons concerned by the authorities of their own country.

ARTICLE 18.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

ARTICLE 19.

The Commanders-in-chief of the belligerent fleets must see that the above Articles are properly carried out; they will have also to see to cases not covered thereby, in accordance with the instructions of their respective Governments and in conformity with the general principles of the present Convention.

ARTICLE 20.

The Signatory Powers shall take the necessary measures for bringing the provisions of the present Convention to the knowledge of their naval forces, and especially of the members entitled thereunder to immunity, and for making them known to the public.

ARTICLE 21.

The Signatory Powers likewise undertake to enact or to propose to their Legislatures, if their criminal laws are inadequate, the measures necessary for checking in time of war individual acts of pil-

blessés et malades en leur pouvoir. Ils recueilleront tous les objets d'un usage personnel, valeurs, lettres, etc. qui seront trouvés dans les vaisseaux capturés, ou délaissés par les blessés ou malades décédés dans les hôpitaux, pour les faire transmettre aux intéressés par les autorités de leur pays.

ARTICLE 18.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

ARTICLE 19.

Les commandants en chef des flottes des belligérants auront à pourvoir aux détails d'exécution des articles précédents, ainsi qu'aux cas non prévus, d'après les instructions de leurs Gouvernements respectifs et conformément aux principes généraux de la présente Convention.

ARTICLE 20.

Les Puissances signataires prendront les mesures nécessaires pour instruire leurs marines, et spécialement le personnel protégé, des dispositions de la présente Convention et pour les porter à la connaissance des populations.

ARTICLE 21.

Les Puissances signataires s'engagent également à prendre ou à proposer à leurs législatures, en cas d'insuffisance de leurs lois pénales, les mesures nécessaires pour réprimer en temps de guerre,

lage and ill-treatment in respect to the sick and wounded in the fleet, as well as for punishing, as an unjustifiable adoption of naval or military marks, the unauthorized use of the distinctive marks mentioned in Article 5 by vessels not protected by the present Convention.

They will communicate to each other, through the Netherlands Government, the enactments for preventing such acts at the latest within five years of the ratification of the present Convention.

les actes individuels de pillage et de mauvais traitements envers des blessés et malades des marines, ainsi que pour punir, comme usurpation d'insignes militaires, l'usage abusif des signes distinctifs désignés à l'article 5 par des bâtiments non protégés par la présente Convention.

Ils se communiqueront, par l'intermédiaire du Gouvernement des Pays-Bas, les dispositions relatives à cette répression, au plus tard dans les cinq ans de la ratification de la présente Convention.

ARTICLE 22.

In the case of operations of war between the land and sea forces of belligerents, the provisions of the present Convention do not apply except between the forces actually on board ship.

ARTICLE 22.

En cas d'opérations de guerre entre les forces de terre et de mer des belligérants, les dispositions de la présente Convention ne seront applicables qu'aux forces embarquées.

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(Article 23 is similar to Article 3 of the Convention for the Recovery of Contract Debts.)

ARTICLE 24.

Non-Signatory Powers which have accepted the Geneva Convention of the 6th July, 1906, may adhere to the present Convention.

The Power which desires to adhere notifies its intention to the Netherlands Government in writing, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE 24.

Les Puissances non signataires qui auront accepté la Convention de Genève du 6 juillet 1906, sont admises à adhérer à la présente Convention.

La Puissance qui désire adhérer, notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE 25.

The present Convention, duly ratified, shall replace as between Contracting Powers, the Convention of the 29th July, 1899, for the adaptation to maritime warfare of the principles of the Geneva Convention.

The Convention of 1899 remains in force as between the Powers which signed it but which do not also ratify the present Convention.

* * * *

ARTICLE 25.

La présente Convention, dûment ratifiée, remplacera dans les rapports entre les Puissances contractantes, la Convention du 29 juillet 1899 pour l'adaptation à la guerre maritime des principes de la Convention de Genève.

La Convention de 1899 reste en vigueur dans les rapports entre les Puissances qui l'ont signée et qui ne ratifieraient pas également la présente Convention.

* * * *

(Three articles follow, Nos. 26 to 28, similar to Articles 5 to 7 of the Convention for the Recovery of Contract Debts.)

CONVENTION RELATIVE TO CERTAIN RESTRICTIONS WITH REGARD TO THE EXERCISE OF THE RIGHT OF CAPTURE IN NAVAL WAR.

Signed by the United States Delegates. Ratification advised by the Senate, March 10, 1908.

The Contracting Powers (see Final Act) recognizing the necessity of more effectively ensuring than hitherto the equitable application of law to the international relations of maritime Powers in time of war;

Considering that, for this purpose, it is expedient, in giving up or, if necessary, in harmonizing for the common interest certain conflicting practices of long standing, to commence codifying in regulations of general application the guarantees due to peaceful commerce and legitimate business, as well as the conduct of hostilities by sea; that it is expedient to lay down in written mutual engagements the principles which have hitherto remained in the uncertain domain of controversy or have been left to the discretion of Governments;

That, from henceforth, a certain number of rules may be made, without affecting the common law now in force with regard to the matters which that law has left unsettled;

Have appointed the following as their Plenipotentiaries:

[For names of Plenipotentiaries, see Final Act.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:

CHAPTER I.—*Postal Correspondence.*

ARTICLE 1.

The postal correspondence of neutrals or belligerents, whatever its official or private character

CHAPITRE I.—*De la Correspondance postale.*

ARTICLE PREMIER.

La correspondance postale des neutres ou des belligérants, quel que soit son caractère officiel ou

may be, found on the high seas on board a neutral or enemy ship, is inviolable. If the ship is detained, the correspondence is forwarded by the captor with the least possible delay.

The provisions of the preceding paragraph do not apply, in case of violation of blockade, to correspondence destined for or proceeding from a blockaded port.

ARTICLE 2.

The inviolability of postal correspondence does not exempt a neutral mail-ship from the laws and customs of maritime war as to neutral merchant-ships in general. The ship, however, may not be searched except when absolutely necessary, and then only with as much consideration and expedition as possible.

CHAPTER II.—*The Exemption from Capture of certain Vessels.*

ARTICLE 3.

Vessels used exclusively for fishing along the coast or small boats employed in local trade are exempt from capture, as well as their appliances, rigging, tackle, and cargo.

They cease to be exempt as soon as they take any part whatever in hostilities.

The Contracting Powers agree not to take advantage of the harmless character of the said vessels in order to use them for military purposes while preserving their peaceful appearance.

ARTICLE 4.

Vessels charged with religious, scientific, or philanthropic missions are likewise exempt from capture.

privé, trouvée en mer sur un navire neutre ou ennemi, est inviolable. S'il y a saisie du navire, elle est expédiée avec le moins de retard possible par le capteur.

Les dispositions de l'alinéa précédent ne s'appliquent pas, en cas de violation de blocus, à la correspondance qui est à destination ou en provenance du port bloqué.

ARTICLE 2.

L'inviolabilité de la correspondance postale ne soustrait pas les paquebots-poste neutres aux lois et coutumes de la guerre sur mer concernant les navires de commerce neutres en général. Toutefois, la visite n'en doit être effectuée qu'en cas de nécessité, avec tous les ménagements et toute la célérité possibles.

CHAPITRE II.—*De l'exemption de capture pour certains bateaux.*

ARTICLE 3.

Les bateaux exclusivement affectés à la pêche côtière ou à des services de petite navigation locale sont exempts de capture, ainsi que leurs engins, agrès, apparaux et chargement.

Cette exemption cesse de leur être applicable dès qu'ils participent d'une façon quelconque aux hostilités.

Les Puissances contractantes s'interdisent de profiter du caractère inoffensif desdits bateaux pour les employer dans un but militaire en leur conservant leur apparence pacifique.

ARTICLE 4.

Sont également exempts de capture les navires chargés de missions religieuses, scientifiques ou philanthropiques.

CHAPTER III.—*Regulations regarding the Crews of Enemy Merchant-ships Captured by a Belligerent.*

ARTICLE 5.

When an enemy merchant-ship is captured by a belligerent, such of its crew as are nationals of a neutral State are not made prisoners of war.

The same rule applies in the case of the captain and officers likewise nationals of a neutral State, if they promise formally in writing not to serve on an enemy ship while the war lasts.

ARTICLE 6.

The captain, officers, and members of the crew, when nationals of the enemy State, are not made prisoners of war, on condition that they make a formal promise in writing, not to undertake, while hostilities last, any service connected with the operations of the war.

ARTICLE 7.

The names of the persons retaining their liberty under the conditions laid down in Article 5, paragraph 2, and in Article 6, are notified by the belligerent captor to the other belligerent. The latter is forbidden knowingly to employ the said persons.

ARTICLE 8.

The provisions of the three preceding Articles do not apply to ships taking part in the hostilities.

CHAPITRE III.—*Du régime des équipages des navires de commerce ennemis capturés par un belligérant.*

ARTICLE 5.

Lorsqu'un navire de commerce ennemi est capturé par un belligérant, les hommes de son équipage, nationaux d'un Etat neutre, ne sont pas faits prisonniers de guerre.

Il en est de même du capitaine et des officiers, également nationaux d'un Etat neutre, s'ils promettent formellement par écrit de ne pas servir sur un navire ennemi pendant la durée de la guerre.

ARTICLE 6.

Le capitaine, les officiers et les membres de l'équipage, nationaux de l'Etat ennemi, ne sont pas faits prisonniers de guerre, à condition qu'ils s'engagent, sous la foi d'une promesse formelle écrite, à ne prendre, pendant la durée des hostilités, aucun service ayant rapport avec les opérations de la guerre.

ARTICLE 7.

Les noms des individus laissés libres dans les conditions visées à l'article 5, alinéa 2 et à l'article 6, sont notifiés par le belligérant capteur à l'autre belligérant. Il est interdit à ce dernier d'employer sciemment lesdits individus.

ARTICLE 8.

Les dispositions des trois articles précédents ne s'appliquent pas aux navires qui prennent part aux hostilités.

CHAPTER IV.—*Final Provisions.*

ARTICLE 9.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

CHAPITRE IV.—*Dispositions finales.*

ARTICLE 9.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

* * * * * * * *

(Five articles follow, Nos. 10 to 14, similar to Articles 3 to 7 of the Convention for the Recovery of Contract Debts.)

CONVENTION CONCERNING THE RIGHTS AND DUTIES OF NEUTRAL POWERS IN NAVAL WAR.

Not *signed by the United States Delegates. Adherence, excepting to Article 23, advised by the Senate, April 17, 1908.*

The Contracting Powers (see Final Act) with a view to harmonizing the divergent views which, in the event of naval war, are still held on the relations between neutral Powers and belligerent Powers, and to anticipating the difficulties to which such divergence of views might give rise;

Seeing that, even if it is not possible at present to concert measures applicable to all circumstances which may in practice occur, it is nevertheless undeniably advantageous to frame, as far as possible, rules of general application to meet the case where war has unfortunately broken out;

Seeing that, in cases not covered by the present Convention, it is expedient to take into consideration the general principles of the law of nations;

Seeing that it is desirable that the Powers should issue detailed enactments to regulate the results of the attitude of neutrality when adopted by them;

Seeing that it is, for neutral Powers, an admitted duty to apply these rules impartially to the several belligerents;

Seeing that, in this catagory of ideas, these rules should not, in principle, be altered, in the course of the war, by a neutral Power, except in a case where experience has shown the necessity for such change for the protection of the rights of that Power;

Have agreed to observe the following common rules, which cannot however modify provisions laid down in existing general Treaties, and have appointed as their Plenipotentiaries, namely:

[For names of Plenipotentiaries, see Final Act.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1.

Belligerents are bound to respect the sovereign rights of neutral Powers and to abstain, in neutral territory or neutral waters, from any act which would, if knowingly permitted by any Power, constitute a violation of neutrality.

ARTICLE 2.

Any act of hostility, including capture and the exercise of the right of search, committed by belligerent war-ships in the territorial waters of a neutral Power, constitutes a violation of neutrality and is strictly forbidden.

ARTICLE 3.

When a ship has been captured in the territorial waters of a neutral Power, this Power must employ, if the prize is still within its jurisdiction, the means at its disposal to release the prize with its officers and crew, and to intern the prize crew.

If the prize is not in the jurisdiction of the neutral Power, the captor Government, on the demand of that Power, must liberate the prize with its officers and crew.[a]

ARTICLE 4.

A Prize Court cannot be set up by a belligerent on neutral territory or on a vessel in neutral waters.

ARTICLE PREMIER.

Les belligérants sont tenus de respecter les droits souverains des Puissances neutres et de s'abstenir, dans le territoire ou les eaux neutres, de tous actes qui constitueraient de la part des Puissances qui les tolèreraient un manquement à leur neutralité.

ARTICLE 2.

Tous actes d'hostilité, y compris la capture et l'exercice du droit de visite, commis par des vaisseaux de guerre belligérants dans les eaux territoriales d'une Puissance neutre, constituent une violation de la neutralité et sont strictement interdits.

ARTICLE 3.

Quand un navire a été capturé dans les eaux territoriales d'une Puissance neutre, cette Puissance doit, si la prise est encore dans sa juridiction, user des moyens dont elle dispose pour que la prise soit relâchée avec ses officiers et son équipage, et pour que l'équipage mis à bord par le capteur soit interné.

Si la prise est hors de la juridiction de la Puissance neutre, le Gouvernement capteur, sur la demande de celle-ci, doit relâcher la prise avec ses officiers et son équipage.

ARTICLE 4.

Aucun tribunal des prises ne peut être constitué par un belligérant sur un territoire neutre ou sur un navire dans des eaux neutres.

[a] See Resolution of Adherence, pp. 221-2, ast paragraph.

ARTICLE 5.

Belligerents are forbidden to use neutral ports and waters as a base of naval operations against their adversaries, and in particular to erect wireless telegraphy stations or any apparatus for the purpose of communicating with the belligerent forces on land or sea.

ARTICLE 6.

The supply, in any manner, directly or indirectly, by a neutral Power to a belligerent Power, of war-ships, ammunition, or war material of any kind whatever, is forbidden.

ARTICLE 7.

A neutral Power is not bound to prevent the export or transit, for the use of either belligerent, of arms, ammunitions, or, in general, of anything which could be of use to an army or fleet.

ARTICLE 8.

A neutral Government is bound to employ the means at its disposal to prevent the fitting out or arming of any vessel within its jurisdiction which it has reason to believe is intended to cruise, or engage in hostile operations, against a Power with which that Government is at peace. It is also bound to display the same vigilance to prevent the departure from its jurisdiction of any vessel intended to cruise, or engage in hostile operations, which had been adapted entirely or partly within the said jurisdiction for use in war.

ARTICLE 5.

Il est interdit aux belligérants de faire des ports et des eaux neutres la base d'opérations navales contre leurs adversaires, notamment d'y installer des stations radio-télégraphiques ou tout appareil destiné à servir comme moyen de communication avec des forces belligérantes sur terre ou sur mer.

ARTICLE 6.

La remise, à quelque titre que ce soit, faite directement ou indirectement par une Puissance neutre à une Puissance belligérante, de vaisseaux de guerre, de munitions, ou d'un matériel de guerre quelconque, est interdite.

ARTICLE 7.

Une Puissance neutre n'est pas tenue d'empêcher l'exportation ou le transit, pour le compte de l'un ou de l'autre des belligérants, d'armes, de munitions, et, en général, de tout ce qui peut être utile à une armée ou à une flotte.

ARTICLE 8.

Un Gouvernement neutre est tenu d'user des moyens dont il dispose pour empêcher dans sa juridiction l'équipement ou l'armement de tout navire, qu'il a des motifs raisonnables de croire destiné à croiser ou à concourir à des opérations hostiles contre une Puissance avec laquelle il est en paix. Il est aussi tenu d'user de la même surveillance pour empêcher le départ hors de sa juridiction de tout navire destiné à croiser ou à concourir à des opérations hostiles, et qui aurait été, dans ladite juridiction, adapté en tout ou en partie à des usages de guerre.

ARTICLE 9.

A neutral Power must apply impartially to the two belligerents the conditions, restrictions, or prohibitions made by it in regard to the admission into its ports, roadsteads, or territorial waters, of belligerent war-ships or of their prizes.

Nevertheless, a neutral Power may forbid a belligerent vessel which has failed to conform to the orders and regulations made by it, or which has violated neutrality, to enter its ports or roadsteads.

ARTICLE 10.

The neutrality of a Power is not affected by the mere passage through its territorial waters of war-ships or prizes belonging to belligerents.

ARTICLE 11.

A neutral Power may allow belligerent war-ships to employ its licensed pilots.

ARTICLE 12.

In the absence of special provisions to the contrary in the legislations of a neutral Power, belligerent war-ships are not permitted to remain in the ports, roadsteads, or territorial waters of the said Power for more than twenty-four hours, except in the cases covered by the present Convention.

ARTICLE 13.

If a Power which has been informed of the outbreak of hostilities learns that a belligerent war-ship is in one of its ports or road-

ARTICLE 9.

Une Puissance neutre doit appliquer également aux deux belligérants les conditions, restrictions ou interdictions, édictées par elle pour ce qui concerne l'admission dans ses ports, rades ou eaux territoriales, des navires de guerre belligérants ou de leurs prises.

Toutefois, une Puissance neutre peut interdire l'accès de ses ports et de ses rades au navire belligérant qui aurait négligé de se conformer aux ordres et prescriptions édictés par elle ou qui aurait violé la neutralité.

ARTICLE 10.

La neutralité d'une Puissance n'est pas compromise par le simple passage dans ses eaux territoriales des navires de guerre et des prises des belligérants.

ARTICLE 11.

Une Puissance neutre peut laisser les navires de guerre des belligérants se servir de ses pilotes brevetés.

ARTICLE 12.

A défaut d'autres dispositions spéciales de la législation de la Puissance neutre, il est interdit aux navires de guerre des belligérants de demeurer dans les ports et rades ou dans les eaux territoriales de ladite Puissance, pendant plus de 24 heures, sauf dans les cas prévus par la présente Convention.

ARTICLE 13.

Si une Puissance avisée de l'ouverture des hostilités apprend qu'un navire de guerre d'un belligérant se trouve dans un de ses

steads, or in its territorial waters, it must notify the said ship to depart within twenty-four hours or within the time prescribed by local regulations.

ARTICLE 14.

A belligerent war-ship may not prolong its stay in a neutral port beyond the permissible time except on account of damage or stress of weather. It must depart as soon as the cause of the delay is at an end.

The regulations as to the question of the length of time which these vessels may remain in neutral ports, roadsteads, or waters, do not apply to war-ships devoted exclusively to religious, scientific, or philanthropic purposes.

ARTICLE 15.

In the absence of special provisions to the contrary in the legislation of a neutral Power, the maximum number of war-ships belonging to a belligerent which may be in one of the ports or roadsteads of that Power simultaneously shall be three.

ARTICLE 16.

When war-ships belonging to both belligerents are present simultaneously in a neutral port or roadstead, a period of not less than twenty-four hours must elapse between the departure of the ship belonging to one belligerent and the departure of the ship belonging to the other.

The order of departure is determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of its stay is permissible.

ports et rades ou dans ses eaux territoriales, elle doit notifier audit navire qu'il devra partir dans les 24 heures ou dans le délai prescrit par la loi locale.

ARTICLE 14.

Un navire de guerre belligérant ne peut prolonger son séjour dans un port neutre au delà de la durée légale que pour cause d'avaries ou à raison de l'état de la mer. Il devra partir dès que la cause du retard aura cessé.

Les règles sur la limitation du séjour dans les ports, rades et eaux neutres, ne s'appliquent pas aux navires de guerre exclusivement affectés à une mission religieuse, scientifique ou philanthropique.

ARTICLE 15.

A défaut d'autres dispositions spéciales de la législation de la Puissance neutre, le nombre maximum des navires de guerre d'un belligérant qui pourront se trouver en même temps dans un de ses ports ou rades, sera de trois.

ARTICLE 16.

Lorsque des navires de guerre des deux Parties belligérantes se trouvent simultanément dans un port ou une rade neutres, il doit s'écouler au moins 24 heures entre le départ du navire d'un belligérant et le départ du navire de l'autre.

L'ordre des départs est déterminé par l'ordre des arrivées, à moins que le navire arrivé le premier ne soit dans le cas où la prolongation de la durée légale du séjour est admise.

A belligerent war-ship may not leave a neutral port or roadstead until twenty-four hours after the departure of a merchant-ship flying the flag of its adversary.

Article 17.

In neutral ports and roadsteads belligerent war-ships may only carry out such repairs as are absolutely necessary to render them seaworthy, and may not add in any manner whatsoever to their fighting force. The local authorities of the neutral Power shall decide what repairs are necessary, and these must be carried out with the least possible delay.

Article 18.

Belligerent war-ships may not make use of neutral ports, roadsteads, or territorial waters for replenishing or increasing their supplies of war material or their armament, or for completing their crews.

Article 19.

Belligerent war-ships may only revictual in neutral ports or roadsteads to bring up their supplies to the peace standard.

Similarly these vessels may only ship sufficient fuel to enable them to reach the nearest port in their own country. They may, on the other hand, fill up their bunkers built to carry fuel, when in neutral countries which have adopted this method of determining the amount of fuel to be supplied.

Un navire de guerre belligérant ne peut quitter un port ou une rade neutres moins de 24 heures après le départ d'un navire de commerce portant le pavillon de son adversaire.

Article 17.

Dans les ports et rades neutres, les navires de guerre belligérants ne peuvent réparer leurs avaries que dans la mesure indispensable à la sécurité de leur navigation et non pas accroître, d'une manière quelconque, leur force militaire. L'autorité neutre constatera la nature des réparations à effectuer qui devront être exécutées le plus rapidement possible.

Article 18.

Les navires de guerre belligérants ne peuvent pas se servir des ports, rades et eaux territoriales neutres, pour renouveler ou augmenter leurs approvisionnements militaires ou leur armement ainsi que pour compléter leurs équipages.

Article 19.

Les navires de guerre belligérants ne peuvent se ravitailler dans les ports et rades neutres que pour compléter leur approvisionnement normal du temps de paix.

Ces navires ne peuvent, de même, prendre du combustible que pour gagner le port le plus proche de leur propre pays. Ils peuvent, d'ailleurs, prendre le combustible nécessaire pour compléter le plein de leurs soutes proprement dites, quand ils se trouvent dans les pays neutres qui ont adopté ce mode de détermination du combustible à fournir.

If, in accordance with the law of the neutral Power, the ships are not supplied with coal within twenty-four hours of their arrival, the permissible duration of their stay is extended by twenty-four hours.

Si, d'après la loi de la Puissance neutre, les navires ne reçoivent du charbon que 24 heures après leur arrivée, la durée légale de leur séjour est prolongée de 24 heures.

ARTICLE 20.

Belligerent war-ships which have shipped fuel in a port belonging to a neutral Power may not within the succeeding three months replenish their supply in a port of the same Power.

ARTICLE 20.

Les navires de guerre belligérants, qui ont pris du combustible dans le port d'une Puissance neutre, ne peuvent renouveler leur approvisionnement qu'après trois mois dans un port de la même Puissance.

ARTICLE 21.

A prize may only be brought into a neutral port on account of unseaworthiness, stress of weather, or want of fuel or provisions.

It must leave as soon as the circumstances which justified its entry are at an end. If it does not, the neutral Power must order it to leave at once; should it fail to obey, the neutral Power must employ the means at its disposal to release it with its officers and crew and to intern the prize crew.

ARTICLE 21.

Une prise ne peut être amenée dans un port neutre que pour cause d'innavigabilité, de mauvais état de la mer, de manque de combustible ou de provisions.

Elle doit repartir aussitôt que la cause qui en a justifié l'entrée a cessé. Si elle ne le fait pas, la Puissance neutre doit lui notifier l'ordre de partir immédiatement; au cas où elle ne s'y conformerait pas, la Puissance neutre doit user des moyens dont elle dispose pour la relâcher avec ses officiers et son équipage et interner l'équipage mis à bord par le capteur.

ARTICLE 22.

A neutral Power must, similarly, release a prize brought into one of its ports under circumstances other than those referred to in Article 21.

ARTICLE 22.

La Puissance neutre doit, de même, relâcher la prise qui aurait été amenée en dehors des conditions prévues par l'article 21.

ARTICLE 23.[a]

A neutral Power may allow prizes to enter its ports and roadsteads, whether under convoy or not, when they are brought there to be sequestrated pending the

ARTICLE 23.

Une Puissance neutre peut permettre l'accès de ses ports et rades aux prises escortées ou non, lorsqu'elles y sont amenées pour être laissées sous sequestre en

[a] *Not* adhered to: see Resolution of Adherence, page 221.

decision of a Prize Court. It may have the prize taken to another of its ports.

If the prize is convoyed by a war-ship, the prize crew may go on board the convoying ship.

If the prize is not under convoy, the prize crew are left at liberty.

ARTICLE 24.

If, notwithstanding the notification of the neutral Power, a belligerent ship of war does not leave a port where it is not entitled to remain, the neutral Power is entitled to take such measures as it considers necessary to render the ship incapable of taking the sea during the war, and the commanding officer of the ship must facilitate the execution of such measures.

When a belligerent ship is detained by a neutral Power, the officers and crew are likewise detained.

The officers and crew thus detained may be left in the ship or kept either on another vessel or on land, and may be subjected to the measures of restriction which it may appear necessary to impose upon them. A sufficient number of men for looking after the vessel must, however, be always left on board.

The officers may be left at liberty on giving their word not to quit the neutral territory without permission.

ARTICLE 25.

A neutral Power is bound to exercise such surveillance as the means at its disposal allow to pre-

attendant la décision du tribunal des prises. Elle peut faire conduire la prise dans un autre de ses ports.

Si la prise est escortée par un navire de guerre, les officiers et les hommes mis à bord par le capteur sont autorisés à passer sur le navire d'escorte.

Si la prise voyage seule, le personnel placé à son bord par le capteur est laissé en liberté.

ARTICLE 24.

Si, malgré la notification de l'autorité neutre, un navire de guerre belligérant ne quitte pas un port dans lequel il n'a pas le droit de rester, la Puissance neutre a le droit de prendre les mesures qu'elle pourra juger nécessaires pour rendre le navire incapable de prendre la mer pendant la durée de la guerre et le commandant du navire doit faciliter l'exécution de ces mesures.

Lorsqu'un navire belligérant est retenu par une Puissance neutre, les officiers et l'équipage sont également retenus.

Les officiers et l'équipage ainsi retenus peuvent être laissés dans le navire ou logés, soit sur un autre navire, soit à terre, et ils peuvent être assujettis aux mesures restrictives qu'il paraîtrait nécessaire de leur imposer. Toutefois, on devra toujours laisser sur le navire les hommes nécessaires à son entretien.

Les officiers peuvent être laissés libres en prenant l'engagement sur parole de ne pas quitter le territoire neutre sans autorisation.

ARTICLE 25.

Une Puissance neutre est tenue d'exercer la surveillance, que comportent les moyens dont elle

vent any violation of the provisions of the above Articles occurring in its ports or roadsteads or in its waters.

ARTICLE 26.

The exercise by a neutral Power of the rights laid down in the present Convention can under no circumstances be considered as an unfriendly act by one or other belligerent who has accepted the Article relating thereto.

ARTICLE 27.

The Contracting Powers shall communicate to each other in due course all Laws, Proclamations, and other enactments regulating in their respective countries the status of belligerent warships in their ports and waters, by means of a communication addressed to the Government of the Netherlands, and forwarded immediately by that Government to the other Contracting Powers.

ARTICLE 28.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

dispose, pour empêcher dans ses ports ou rades et dans ses eaux toute violation des dispositions qui précèdent.

ARTICLE 26.

L'exercice par une Puissance neutre des droits définis par la présente Convention ne peut jamais être considéré comme un acte peu amical par l'un ou par l'autre belligérant qui a accepté les articles qui précèdent.

ARTICLE 27.

Les Puissances contractantes se communiqueront réciproquement, en temps utile, toutes les lois, ordonnances et autres dispositions réglant chez elles le régime des navires de guerre belligérants dans leurs ports et leurs eaux, au moyen d'une notification adressée au Gouvernement des Pays-Bas et transmise immédiatement par celui ci aux autres Puissances contractantes.

ARTICLE 28.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

* * * * * * * *

(Five articles follow, Nos. 29 to 33, similar to Articles 3 to 7 of the Convention for the Recovery of Contract Debts.)

RESOLUTION OF ADHERENCE.

Resolved (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the adherence of the United States to a convention adopted by the Second International Peace Conference held at The Hague from June 15 to October 18, 1907, concerning the rights and duties of neutral powers in naval war, reserving and excluding, however, Article 23 thereof, which is in the following words:

"A neutral power may allow prizes to enter its ports and roadsteads, whether under convoy or not, when they are brought there to be

sequestrated pending the decision of a prize court. It may have the prize taken to another of its ports.

"If the prize is convoyed by a war ship, the prize crew may go on board the convoying ship.

"If the prize is not under convoy, the prize crew are left at liberty."

Resolved, further, That the United States adheres to this convention with the understanding that the last clause of Article 3 implies the duty of a neutral power to make the demand therein mentioned for the return of a ship captured within the neutral jurisdiction and no longer within that jurisdiction.

DECLARATION PROHIBITING THE DISCHARGE OF PROJECTILES AND EXPLOSIVES FROM BALLOONS.

Signed by the United States Delegates. Ratification advised by the Senate, March 10, 1908.

The Undersigned, Plenipotentiaries of the Powers invited to the Second International Peace Conference at The Hague, duly authorized to that effect by their Governments, inspired by the sentiments which found expression in the Declaration of St. Petersburg of the 29th November (11th December), 1868, and being desirous of renewing the declaration of The Hague of the 29th July, 1899, which has now expired,

Declare:

The Contracting Powers agree to prohibit, for a period extending to the close of the Third Peace Conference, the discharge of projectiles and explosives from balloons or by other new methods of a similar nature.

The present Declaration is only binding on the Contracting Powers in case of war between two or more of them.

It shall cease to be binding from the time when, in a war between the Contracting Powers, one of the belligerents is joined by a non-Contracting Power.

Les soussignés, Plénipotentiaires des Puissances conviées à la Deuxième Conférence Internationale de la Paix à La Haye, dûment autorisés à cet effet par leurs Gouvernements, s'inspirant des sentiments qui ont trouvé leur expression dans la Déclaration de St. Pétersbourg du 29 novembre (11 décembre) 1868, et désirant renouveler la Déclaration de La Haye du 29 juillet 1899, arrivée à expiration,

Déclarent:

Les Puissances contractantes consentent, pour une période allant jusqu'à la fin de la troisième Conférence de la Paix, à l'interdiction de lancer des projectiles et des explosifs du haut de ballons ou par d'autres modes analogues nouveaux.

La présente Déclaration n'est obligatoire que pour les Puissances contractantes, en cas de guerre entre deux ou plusieurs d'entre elles.

Elle cessera d'être obligatoire du moment où, dans une guerre entre des Puissances contractantes, une Puissance non contractante se joindrait à l'un des belligérants.

The present Declaration shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

A *procès-verbal* shall be drawn up recording the receipt of the ratifications, of which a duly certified copy shall be sent, through the diplomatic channel, to all the Contracting Powers.

Non-Signatory Powers may adhere to the present Declaration. To do so, they must make known their adhesion to the Contracting Powers by means of a written notification, addressed to the Netherlands Government, and communicated by it to all the other Contracting Powers.

In the event of one of the High Contracting Parties denouncing the present Declaration, such denunciation shall not take effect until a year after the notification made in writing to the Netherlands Government, and forthwith communicated by it to all the other Contracting Powers.

This denunciation shall only have affect in regard to the notifying Power.

In faith whereof the Plenipotentiaries have appended their signatures to the present Declaration. [a]

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherlands Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Contracting Powers.

La présente Déclaration sera ratifiée dans le plus bref délai possible.

Les ratifications seront déposées à La Haye.

Il sera dressé du dépôt des ratifications un procès-verbal, dont une copie, certifiée conforme, sera remise par la voie diplomatique à toutes les Puissances contractantes.

Les Puissances non signataires pourront adhérer à la présente Déclaration. Elles auront, à cet effet, à faire connaître leur adhésion aux Puissances contractantes, au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et communiquée par celui-ci à toutes les autres Puissances contractantes.

S'il arrivait qu'une des Hautes Parties Contractantes dénonçât la présente Déclaration, cette dénonciation ne produirait ses effets qu'un an après la notification faite par écrit au Gouvernement des Pays-Bas et communiquée immédiatement par celui-ci à toutes les autres Puissances contractantes.

Cette dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée.

En foi de quoi, les Plénipotentiaires ont revêtu la présent Déclaration de leurs signatures.

Fait à La Haye, le dix-huit octobre mil neuf cent sept, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances contractantes.

[a] See at end, Table of Signatures.

CONVENTION RELATIVE TO THE STATUS OF ENEMY MERCHANT SHIPS AT THE OUTBREAK OF HOSTILITIES.

Not *signed by the United States Delegates. Ratification* not *advised by the Senate.*

The Contracting Powers (see Final Act) anxious to ensure the security of international commerce against the surprises of war, and wishing, in accordance with modern practice, to protect as far as possible operations undertaken in good faith and in process of being carried out before the outbreak of hostilities, have resolved to conclude a Convention to this effect, and have appointed the following persons as their Plenipotentiaries:

[For names of Plenipotentiaries, see Final Act.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:—

Article 1.

When a merchant-ship belonging to one of the belligerent Powers is at the commencement of hostilities in an enemy port, it is desirable that it should be allowed to depart freely, either immediately, or after a reasonable number of days of grace, and to proceed, after being furnished with a pass, direct to its port of destination or any other port indicated.

The same rule should apply in the case of a ship which has left its last port of departure before the commencement of the war and entered a port belonging to the enemy while still ignorant that hostilities had broken out.

Article 2.

A merchant-ship unable, owing to circumstances of *force majeure*, to leave the enemy port within the period contemplated in the above Article, or which was not allowed to leave, cannot be confiscated.

The belligerent may only detain it, without payment of compensa-

Article Premier.

Lorsqu'un navire de commerce relevant d'une des Puissances belligérantes se trouve, au début des hostilités, dans un port ennemi, il est désirable qu'il lui soit permis de sortir librement, immédiatement ou après un délai de faveur suffisant, et de gagner directement, après avoir été muni d'un laissez-passer, son port de destination ou tel autre port qui lui sera désigné.

Il en est de même du navire ayant quitté son dernier port de départ avant le commencement de la guerre et entrant dans un port ennemi sans connaître les hostilités.

Article 2.

Le navire de commerce qui, par suite de circonstances de force majeure, n'aurait pu quitter le port ennemi pendant le délai visé à l'article précédent, ou auquel la sortie n'aurait pas été accordée, ne peut être confisqué.

Le belligérant peut seulement le saisir moyennant l'obligation de

tion, but subject to the obligation of restoring it after the war, or requisition it on payment of compensation.

ARTICLE 3.

Enemy merchant-ships which left their last port of departure before the commencement of the war, and are encountered on the high seas while still ignorant of the outbreak of hostilities cannot be confiscated. They are only liable to detention on the understanding that they shall be restored after the war without compensation, or to be requisitioned, or even destroyed, on payment of compensation, but in such case provision must be made for the safety of the persons on board as well as the security of the ship's papers.

After touching at a port in their own country or at a neutral port, these ships are subject to the laws and customs of maritime war.

ARTICLE 4.

Enemy cargo on board the vessels referred to in Articles 1 and 2 is likewise liable to be detained and restored after the termination of the war without payment of compensation, or to be requisitioned on payment of compensation, with or without the ship.

The same rule applies in the case of cargo on board the vessels referred to in Article 3.

ARTICLE 5.

The present Convention does not affect merchant-ships whose build shows that they are intended for conversion into war-ships.

le restituer après la guerre sans indemnité, ou le réquisitionner moyennant indemnité.

ARTICLE 3.

Les navires de commerce ennemis, qui ont quitté leur dernier port de départ avant le commencement de la guerre et qui sont rencontrés en mer ignorants des hostilités, ne peuvent être confisqués. Ils sont seulement sujets à être saisis, moyennant l'obligation de les restituer après la guerre sans indemnité, ou à être réquisitionnés, ou même à être détruits, à charge d'indemnité et sous l'obligation de pourvoir à la sécurité des personnes ainsi qu'à la conservation des papiers de bord.

Après avoir touché à un port de leur pays ou à un port neutre, ces navires sont soumis aux lois et coutumes de la guerre maritime.

ARTICLE 4.

Les marchandises ennemies se trouvant à bord des navires visés aux articles 1 et 2 sont également sujettes à être saisies et restituées après la guerre sans indemnité, ou à être réquisitionnées moyennant indemnité, conjointement avec le navire ou séparément.

Il en est de même des marchandises se trouvant à bord des navires visés à l'article 3.

ARTICLE 5.

La présente Convention ne vise pas les navires de commerce dont la construction indique qu'ils sont destinés à être transformés en bâtiments de guerre.

ARTICLE 6.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

ARTICLE 6.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

* * * * * * * *

(Five articles follow, Nos. 7 to 11, similar to Articles 3 to 7 of the Convention for the Recovery of Contract Debts.)

CONVENTION RELATIVE TO THE CONVERSION OF MERCHANT SHIPS INTO WAR SHIPS.

Not *signed by the United States Delegates. Ratification* not *advised by the Senate.*

The Contracting Powers (see Final Act), considering that it is desirable, in view of the incorporation in time of war of merchant-ships in the fighting fleet, to define the conditions subject to which this operation may be effected;

Whereas, however, the Contracting Powers have been unable to come to an agreement on the question whether the conversion of a merchant-ship into a war-ship may take place upon the high seas, it is understood that the question of the place where such conversion is effected remains outside the scope of this Agreement and is in no way affected by the following rules;

Being desirous of concluding a Convention to this effect, have appointed the following as their Plenipotentiaries:

[For names of Plenipotentiaries, see Final Act.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1.

A merchant-ship converted into a war-ship cannot have the rights and duties accruing to such vessels unless it is placed under the direct authority, immediate control, and responsibility of the Power whose flag it flies.

ARTICLE PREMIER.

Aucun navire de commerce transformé en bâtiment de guerre ne peut avoir les droits et les obligations attachés à cette qualité, s'il n'est placé sous l'autorité directe, le contrôle immédiat et la responsabilité de la Puissance dont il porte le pavillon.

ARTICLE 2.

Merchant-ships converted into war-ships must bear the external marks which distinguish the war-ships of their nationality.

ARTICLE 2.

Les navires de commerce transformés en bâtiments de guerre doivent porter les signes extérieurs distinctifs des bâtiments de guerre de leur nationalité.

ARTICLE 3.

The commander must be in the service of the State and duly commissioned by the competent authorities. His name must figure on the list of the officers of the fighting fleet.

ARTICLE 4.

The crew must be subject to military discipline.

ARTICLE 5.

Every merchant-ship converted into a war-ship must observe in its operations the laws and customs of wars.

ARTICLE 6.

A belligerent who converts a merchant-ship into a war-ship must, as soon as possible, announce such conversion in the list of war-ships.

ARTICLE 7.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

* * * *

ARTICLE 3.

Le commandant doit être au service de l'Etat et dûment commissionné par les autorités compétentes. Son nom doit figurer sur la liste des officiers de la flotte militaire.

ARTICLE 4.

L'équipage doit être soumis aux règles de la discipline militaire.

ARTICLE 5.

Tout navire de commerce transformé en bâtiment de guerre est tenu d'observer dans ses opérations, les lois et coutumes de la guerre.

ARTICLE 6.

Le belligérant, qui transforme un navire de commerce en bâtiment de guerre, doit, le plus tôt possible, mentionner cette transformation sur la liste des bâtiments de sa flotte militaire.

ARTICLE 7.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

* * * *

(Five articles follow, Nos. 8 to 12, similar to Articles 3 to 7 of the Convention for the Recovery of Contract Debts.)

CONVENTION RELATIVE TO THE CREATION OF AN INTERNATIONAL PRIZE COURT.

Signed by the United States Delegates. Ratification not *advised by the Senate.*

The Contracting Powers (see Final Act), animated by the desire to settle in an equitable manner the differences which sometimes arise in the course of a naval war in connection with the decisions of National Prize Courts;

Considering that, if these Courts are to continue to exercise their functions in the manner determined by national legislation it is desirable that in certain cases an appeal should be provided, under conditions conciliating, as far as possible, the public and private interests involved in matters of prize;

Whereas, moreover, the institution of an International Court, whose jurisdiction and procedure would be carefully defined, has seemed to be the best method of attaining this object;

Convinced, finally, that in this manner the hardships consequent on naval war would be mitigated; that, in particular, good relations will be more easily maintained between belligerents and neutrals and peace better assured;

Desirous of concluding a Convention to this effect, have appointed the following as their Plenipotentiaries:

[For names of Plenipotentiaries see Final Act.]

Who, after depositing their full powers, found in good and due form, have agreed upon the following provisions:

PART I.—*General Provisions.*

ARTICLE 1.

The validity of the capture of a merchant-ship or its cargo is decided before a Prize Court in accordance with the present Convention when neutral or enemy property is involved.

ARTICLE 2.

Jurisdiction in matters of prize is exercised in the first instance by the Prize Courts of the belligerent captor.

The judgments of these Courts are pronounced in public or are officially notified to parties concerned who are neutrals or enemies.

ARTICLE 3.

The judgments of National Prize Courts may be brought before the International Prize Court—

1. When the judgment of the National Prize Courts affects the property of a neutral Power or individual;

TITRE I.—*Dispositions générales.*

ARTICLE PREMIER.

La validité de la capture d'un navire de commerce ou de sa cargaison est, s'il s'agit de propriétés neutres ou ennemies, établie devant une juridiction des prises conformément à la présente Convention.

ARTICLE 2.

La juridiction des prises est exercée d'abord par les tribunaux de prises du belligérant capteur.

Les décisions de ces tribunaux sont prononcées en séance publique ou notifiées d'office aux parties neutre ou ennemies.

ARTICLE 3.

Les décisions des tribunaux de prises nationaux peuvent être l'objet d'un recours devant la Cour internationale des prises:

1° lorsque la décision des tribunaux nationaux concerne les propriétés d'une Puissance ou d'un particulier neutres;

2. When the judgment affects enemy property and relates to—

(*a*) Cargo on board a neutral ship;

(*b*) An enemy ship captured in the territorial waters of a neutral Power, when that Power has not made the capture the subject of a diplomatic claim;

(*c*) A claim based upon the allegation that the seizure has been effected in violation, either of the provisions of a Convention in force between the belligerent Powers, or of an enactment issued by the belligerent captor.

The appeal against the judgment of the National Court can be based on the ground that the judgment was wrong either in fact or in law.

ARTICLE 4.

An appeal may be brought—

1. By a neutral Power, if the judgment of the National Tribunals injuriously affects its property or the property of its nationals (Article 3 (1)), or if the capture of an enemy vessel is alleged to have taken place in the territorial waters of that Power (Article 3 (2) (*b*));

2. By a neutral individual, if the judgment of the National Court injuriously affects his property (Article 3 (1)), subject, however, to the reservation that the Power to which he belongs may forbid him to bring the case before the Court, or may itself undertake the proceedings in his place;

3. By an individual subject or citizen of an enemy Power, if the

2° lorsque ladite décision concerne des propriétés ennemies et qu'il s'agit:

(*a*) de marchandises chargées sur un navire neutre,

(*b*) d'un navire ennemi, qui aurait été capturé dans les eaux territoriales d'une Puissance neutre, dans le cas où cette Puissance n'aurait pas fait de cette capture l'objet d'une réclamation diplomatique,

(*c*) d'une réclamation fondée sur l'allégation que la capture aurait été effectuée en violation, soit d'une disposition conventionnelle en vigueur entre les Puissances belligérantes, soit d'une disposition légale édictée par le belligérant capteur.

Le recours contre la décision des tribunaux nationaux peut être fondé sur ce que cette décision ne serait pas justifiée, soit en fait, soit en droit.

ARTICLE 4.

Le recours peut être exercé:

1° par une Puissance neutre, si la décision des tribunaux nationaux a porté atteinte à ses propriétés ou à celles de ses ressortissants (article 3, 1°) ou s'il est allégué que la capture d'un navire ennemi a eu lieu dans les eaux territoriales de cette Puissance (article 3, 2° (*b*));

2° par un particulier neutre, si la décision des tribunaux nationaux a porté atteinte à ses propriétés (article 3, 1°), sous réserve toutefois du droit de la Puissance dont il relève de lui interdire l'accès de la Cour ou d'y agir elle-même en ses lieu et place;

3° par un particulier relevant de la Puissance ennemie, si la dé-

judgment of the National Court injuriously affects his property in the cases referred to in Article 3 (2), except that mentioned in paragraph (*b*).

ARTICLE 5.

An appeal may also be brought on the same conditions as in the preceding Article, by persons belonging either to neutral States or to the enemy, deriving their rights from and entitled to represent an individual qualified to appeal, and who have taken part in the proceedings before the National Court. Persons so entitled may appeal separately to the extent of their interest.

The same rule applies in the case of persons belonging either to neutral States or to the enemy who derive their rights from and are entitled to represent a neutral Power whose property was the subject of the decision.

ARTICLE 6.

When, in accordance with the above Article 3, the International Court has jurisdiction, the National Courts cannot deal with a case in more than two instances. The municipal law of the belligerent captor shall decide whether the case may be brought before the International Court after judgment has been given in first instance or only after an appeal.

If the National Courts fail to give final judgment within two years from the date of capture, the case may be carried direct to the International Court.

cision des tribunaux nationaux a porté atteinte à ses propriétés dans les conditions visées à l'article 3, 2°, à l'exception du cas prévu par l'alinéa (*b*).

ARTICLE 5.

Le recours peut aussi être exercé, dans les mêmes conditions qu'à l'article pécédent, par les ayants-droit, neutres ou ennemis, du particulier auquel le recours est accordé, et qui sont intervenus devant la juridiction nationale. Ces ayants-droit peuvent exercer individuellement le recours dans la mesure de leur intérêt.

Il en est de même des ayants-droit, neutres ou ennemis, de la Puissance neutre dont la propriété est en cause.

ARTICLE 6.

Lorsque, conformément à l'article 3 ci-dessus, la Cour internationale est compétente, le droit de juridiction des tribunaux nationaux ne peut être exercé à plus de deux degrés. Il appartient à la législation du belligérant capteur de décider si le recours est ouvert après la décision rendue en premier ressort ou seulement après la décision rendue en appel ou en cassation.

Faute par les tribunaux nationaux d'avoir rendu une décision définitive dans les deux ans à compter du jour de la capture, la Cour peut être saisie directement.

ARTICLE 7.

If a question of law to be decided is covered by a Treaty in force between the belligerent captor and a Power which is itself or whose subject or citizen is a party to the proceedings, the Court is governed by the provisions of the said Treaty.

In the absence of such provisions, the Court shall apply the rules of international law. If no generally recognized rule exists, the Court shall give judgment in accordance with the general principles of justice and equity.

The above provisions apply equally to questions relating to the order of evidence and the pleadings.

If, in accordance with Article 3 (2) (*c*), the ground of appeal is the violation of an enactment issued by the belligerent captor, the Court will enforce the enactment.

The Court may disregard failure to comply with the procedure laid down in the enactments of the belligerent captor, when it is of opinion that the consequences of complying therewith are unjust and inequitable.

ARTICLE 8.

If the Court pronounces the capture of the vessel or cargo to be valid, they shall be disposed of in accordance with the laws of the belligerent captor.

If it pronounces the capture to be null, the Court shall order restitution of the vessel or cargo, and shall fix, if there is occasion, the amount of the damages. If the vessel or cargo have been sold or

ARTICLE 7.

Si la question de droit à résoudre est prévue par une Convention en vigueur entre le belligérant capteur et la Puissance qui est elle-même partie au litige ou dont le ressortissant est partie au litige, la Cour se conforme aux stipulations de ladite Convention.

A défaut de telles stipulations, la Cour applique les règles du droit international. Si des règles généralement reconnues n'existent pas, la Cour statue d'après les principes généraux de la justice et de l'équité.

Les dispositions ci-dessus sont également applicables en ce qui concerne l'ordre des preuves ainsi que les moyens qui peuvent être employés.

Si, conformément à l'article 3, 2°, (*c*), le recours est fondé sur la violation d'une disposition légale édictée par le belligérant capteur, la Cour applique cette disposition.

La Cour peut ne pas tenir compte des déchéances de procédure édictées par la législation du belligérant capteur, dans les cas où elle estime que les conséquences en sont contraires à la justice et à l'équité.

ARTICLE 8.

Si la Cour prononce la validité de la capture du navire ou de la cargaison, il en sera disposé conformément aux lois du belligérant capteur.

Si la nullité de la capture est prononcée la Cour ordonne la restitution du navire ou de la cargaison et fixe, s'il y a lieu, le montant des dommages-intérêts. Si le navire ou la cargaison ont été ven-

destroyed, the Court shall determine the compensation to be given to the owner on this account.

If the national Court pronounced the capture to be null, the Court can only be asked to decide as to the damages.

ARTICLE 9.

The Contracting Powers undertake to submit in good faith to the decisions of the International Prize Court and to carry them out with the least possible delay.

PART II.—*Constitution of the International Prize Court.*

ARTICLE 10.

The International Prize Court is composed of Judges and Deputy Judges, who will be appointed by the Contracting Powers, and must all be jurists of known proficiency in questions of international maritime law, and of the highest moral reputation.

The appointment of these Judges and Deputy Judges shall be made within six months after the ratification of the present Convention.

ARTICLE 11.

The Judges and Deputy Judges are appointed for a period of six years, reckoned from the date on which the notification of their appointment is received by the Administrative Council established by the Convention for the Pacific Settlement of International Disputes of the 29th July, 1899. Their appointments can be renewed.

Should one of the Judges or Deputy Judges die or resign, the same procedure is followed for filling the

dus ou détruits, la Cour détermine l'indemnité à accorder de ce chef au propriétaire.

Si la nullité de la capture avait été prononcée par la juridiction nationale, la Cour n'est appelée à statuer que sur les dommages et intérêts.

ARTICLE 9.

Les Puissances contractantes s'engagent à se soumettre de bonne foi aux décisions de la Cour internationale des prises et à les exécuter dans le plus bref délai possible.

TITRE II.—*Organisation de la Cour internationale des prises.*

ARTICLE 10.

La Cour internationale des prises se compose de juges et de juges suppléants, nommés par les Puissances contractantes et qui tous devront être des jurisconsultes d'une compétence reconnue dans les questions de droit international matitime et jouissant de la plus haute considération morale.

La nomination de ces juges et juges suppléants sera faite dans les six mois qui suivront la ratification de la présente Convention.

ARTICLE 11.

Les juges et juges suppléants sont nommés pour une période de six ans, à compter de la date où la notification de leur nomination aura été reçue par le Conseil administratif institué par la Convention pour règlement pacifique des conflits internationaux du 29 juillet 1899. Leur mandat peut être renouvelé.

En cas de décès ou de démission d'un juge ou d'un juge suppléant, il est pourvu à son remplacement

vacancy as was followed for appointing him. In this case, the appointment is made for a fresh period of six years.

ARTICLE 12.

The Judges of the International Prize Court are all equal in rank and have precedence according to the date on which the notification of their appointment was received (Article 11, paragraph 1), and if they sit by rota (Article 15, paragraph 2), according to the date on which they entered upon their duties. When the date is the same the senior in age takes precedence.

The Deputy Judges when acting are assimilated to the Judges. They rank, however, after them.

ARTICLE 13.

The Judges enjoy diplomatic privileges and immunities in the performance of their duties and when outside their own country.

Before taking their seat, the Judges must swear, or make a solemn promise before the Administrative Council, to discharge their duties impartially and conscientiously.

ARTICLE 14.

The Court is composed of fifteen Judges; nine Judges constitute a quorum.

A Judge who is absent or prevented from sitting is replaced by the Deputy Judge.

ARTICLE 15.

The Judges appointed by the following Contracting Powers: Germany, the United States of Amer-

selon le mode fixé pour sa nomination. Dans ce cas, la nomination est faite pour une nouvelle période de six ans.

ARTICLE 12.

Les juges de la Cour internationale des prises sont égaux entre eux et prennent rang d'après la date où la notification de leur nomination aura été reçue (article 11, alinéa 1), et, s'ils siègent à tour de rôle (article 15, alinéa 2), d'après la date de leur entrée en fonctions. La préséance appartient au plus âgé, au cas où la date est la même.

Les juges suppléants sont, dans l'exercice de leurs fonctions, assimilées aux juges titulaires. Toutefois ils prennent rang après ceux-ci.

ARTICLE 13.

Les juges jouissent des privilèges et immunités diplomatiques dans l'exercice de leurs fonctions et en dehors de leur pays.

Avant de prendre possession de leur siège, les juges doivent, devant le Conseil administratif, prêter serment ou faire une affirmation solennelle d'exercer leurs fonctions avec impartialité et en toute conscience.

ARTICLE 14.

La Cour fonctionne au nombre de quinze juges; neuf juges constituent le quorum nécessaire.

Le juge absent ou empêché est remplacé par le suppléant.

ARTICLE 15.

Les juges nommés par les Puissances contractantes dont les noms suivent: l'Allemagne, les Etats-

ica, Austria - Hungary, France, Great Britain, Italy, Japan, and Russia, are always summoned to sit.

The Judges and Deputy Judges appointed by the other Contracting Powers sit by rota as shown in the Table annexed to the present Convention; their duties may be performed successively by the same person. The same Judge may be appointed by several of the said Powers.

ARTICLE 16.

If a belligerent Power has, according to the rota, no Judge sitting in the Court, it may ask that the Judge appointed by it shall take part in the settlement of all cases arising from the war. Lots shall then be drawn as to which of the Judges entitled to sit according to the rota shall withdraw. This withdrawal does not apply to the Judge appointed by the other belligerent.

ARTICLE 17.

No Judge can sit who has been a party, in any way whatever, to the sentence pronounced by the National Courts, or has taken part in the case as counsel or advocate for one of the parties.

No Judge or Deputy Judge can, during his tenure of office, appear as agent or advocate before the International Prize Court, nor act for one of the parties in any capacity whatever.

ARTICLE 18.

The belligerent captor is entitled to appoint a naval officer of high rank to sit as Assessor, in an advisory capacity without vote. A

Unis d'Amérique, l'Autriche-Hongrie, la France, la Grande-Bretagne, l'Italie, le Japon et la Russie sont toujours appelés à siéger.

Les juges et les juges suppléants nommés par les autres Puissances contractantes siègent à tour de rôle d'après le tableau annexé à la présente Convention; leurs fonctions peuvent être exercées successivement par la même personne. Le même juge peut être nommé par plusieurs desdites Puissances.

ARTICLE 16.

Si une Puissance belligérante n'a pas, d'après le tour de rôle, un juge siégeant dans la Cour, elle peut demander que le juge nommé par elle prenne part au jugement de toutes les affaires provenant de la guerre. Dans ce cas, le sort détermine lequel des juges siégeant en vertu du tour de rôle doit s'abstenir. Cette exclusion ne saurait s'appliquer au juge nommé par l'autre belligérant.

ARTICLE 17.

Ne peut siéger le juge qui, à un titre quelconque, aura concourru à la décision des tribunaux nationaux ou aura figuré dans l'instance comme conseil ou avocat d'une partie.

Aucun juge, titulaire ou suppléant, ne peut intervenir comme agent ou comme avocat devant la Cour internationale des prises ni y agir pour une partie en quelque qualité que ce soit, pendant toute la durée de ses fonctions.

ARTICLE 18.

Le belligérant capteur a le droit de désigner un officier de marine d'un grade élevé qui siègera en qualité d'assesseur avec voix con-

neutral Power, which is a party to the proceedings or whose subject or citizen is a party, has the same right of appointment; if as the result of this last provision more than one Power is concerned, they must agree among themselves, if necessary by lot, on the officer to be appointed.

ARTICLE 19.

The Court elects its President and Vice-President by an absolute majority of the votes cast. After two ballots, the election is decided by a plurality, and, in case the votes are equal, by lot.

ARTICLE 20.

The Judges on the International Prize Court are entitled to traveling allowances in accordance with the regulations in force in their own country, and in addition receive, while the Court is sitting or while they are carrying out duties conferred upon them by the Court, a sum of 100 Netherlands florins per diem.

These payments are included in the general expenses of the Court dealt with in Article 47, and are paid through the International Bureau established by the Convention of the 29th July, 1899.

The Judges may not receive from their own Government or from that of any other Power any remuneration in their capacity of members of the Court.

ARTICLE 21.

The seat of the International Prize Court is at The Hague and it cannot, except in the case of *force majeure*, be transferred elsewhere without the consent of the belligerents.

sultative. La même faculté appartient à la Puissance neutre, qui est elle-même partie au litige, ou à la Puissance dont le ressortissant est partie au litige; s'il y a, par application de cette dernière disposition, plusieurs Puissances intéressées, elles doivent se concerter, au besoin par le sort, sur l'officier à désigner.

ARTICLE 19.

La Cour élit son Président et son Vice-Président à la majorité absolue des suffrages exprimés. Après deux tours de scrutin, l'élection se fait à la majorité relative et, en cas de partage des voix, le sort décide.

ARTICLE 20.

Les juges de la Cour internationale des prises touchent une indemnité de voyage fixée d'après les règlements de leur pays et reçoivent, en outre, pendant la session ou pendant l'exercice de fonctions conférées par la Cour, une somme de cent florins néerlandais par jour.

Ces allocations, comprises dans les frais généraux de la Cour prévus par l'article 47, sont versées par l'entremise du Bureau international institué par la Convention du 29 juillet 1899.

Les juges ne peuvent recevoir de leur propre Gouvernement ou de celui d'une autre Puissance aucune remunération comme membres de la Cour.

ARTICLE 21.

La Cour internationale des prises a son siège à La Haye et ne peut, sauf le cas de force majeure, le transporter ailleurs qu'avec l'assentiment des Parties belligérantes.

ARTICLE 22.

The Administrative Council fulfils, with regard to the International Prize Court, the same functions as to the Permanent Court of Arbitration, but only Representatives of Contracting Powers will be members of it.

ARTICLE 23.

The International Bureau acts as registry to the International Prize Court and must place its offices and staff at the disposal of the Court. It has charge of the archives and carries out the administrative work.

The Secretary-General of the International Bureau acts as Registrar.

The necessary secretaries to assist the Registrar, translators and shorthand writers are appointed and sworn in by the Court.

ARTICLE 24.

The Court determines which language it will itself use and what languages may be used before it.

The official language of the National Courts which have had cognizance of the case may always be used before the Court.

ARTICLE 25.

Powers which are concerned in a case may appoint special agents to act as intermediaries between themselves and the Court. They may also engage counsel or advocates to defend their rights and interests.

ARTICLE 26.

A private person concerned in a case will be represented before the Court by an attorney, who

ARTICLE 22.

Le Conseil administratif, dans lequel ne figurent que les représentants des Puissances contractantes, remplit, à l'égard de la Cour internationale des prises, les fonctions qu'il remplit à l'égard de la Cour permanente d'arbitrage.

ARTICLE 23.

Le Bureau international sert de greffe à la Cour internationale des prises et doit mettre ses locaux et son organisation à la disposition de la Cour. Il a la garde des archives et la gestion des affaires administratives.

Le Secrétaire-Général du Bureau international remplit les fonctions de greffier.

Les secrétaires adjoints au greffier, les traducteurs et les sténographes nécessaires sont désignés et assermentés par la Cour.

ARTICLE 24.

La Cour décide du choix de la langue dont elle fera usage et des langues dont l'emploi sera autorisé devant elle.

Dans tous les cas, la langue officielle des tribunaux nationaux qui ont connu de l'affaire, peut être employée devant la Cour.

ARTICLE 25.

Les Puissances intéressées ont le droit de nommer des agents spéciaux ayant mission de servir d'intermédiaires entre Elles et la Cour. Elles sont, en outre, autorisées à charger des conseils ou avocats de la défense de leurs droits et intérêts.

ARTICLE 26.

Le particulier intéressé sera représenté devant la Cour par un mandataire qui doit être soit un

must be either an advocate qualified to plead before a Court of Appeal or a High Court of one of the Contracting States, or a lawyer practising before a similar Court, or lastly, a professor of law at one of the higher teaching centres of those countries.

ARTICLE 27.

For all notices to be served, in particular on the parties, witnesses, or experts, the Court may apply direct to the Government of the State on whose territory the service is to be carried out. The same rule applies in the case of steps being taken to procure evidence.

The requests for this purpose are to be executed so far as the means at the disposal of the Power applied to under its municipal law allow. They cannot be rejected unless the Power in question considers them calculated to impair its sovereign rights or its safety. If the request is complied with, the fees charged must only comprise the expenses actually incurred.

The Court is equally entitled to act through the Power on whose territory it sits.

Notices to be given to parties in the place where the Court sits may be served through the International Bureau.

PART III.—*Procedure in the International Prize Court.*

ARTICLE 28.

An appeal to the International Prize Court is entered by means of a written declaration made in the National Court which has already

avocat autorisé à plaider devant une Cour d'appel ou une Cour suprême de l'un des Pays contractants, soit un avoué exerçant sa profession auprès d'une telle Cour, soit enfin un professeur de droit à une école d'enseignement supérieur d'un de ces pays.

ARTICLE 27.

Pour toutes les notifications à faire, notamment aux parties, aux témoins et aux experts, la Cour peut s'adresser directement au Gouvernement de la Puissance sur le territoire de laquelle la notification doit être effectuée. Il en est de même s'il s'agit de faire procéder à l'établissement de tout moyen de preuve.

Les requêtes adressées à cet effet seront exécutées suivant les moyens dont la Puissance requise dispose d'après sa législation intérieure. Elles ne peuvent être refusées que si cette Puissance les juge de nature à porter atteinte à sa souveraineté ou à sa sécurité. S'il est donné suite à la requête, les frais ne comprennent que les dépenses d'exécution réellement effectuées.

La Cour a également la faculté de recourir à l'intermédiaire de la Puissance sur le territoire de laquelle elle a son siége.

Les notifications à faire aux parties dans le lieu où siège la Cour peuvent être exécutées par le Bureau international.

TITRE III.—*Procédure devant la Cour internationale des prises.*

ARTICLE 28.

Le recours devant la Cour internationale des prises est formé au moyen d'une déclaration écrite, faite devant le tribunal national

dealt with the case or addressed to the International Bureau; in the latter case the appeal can be entered by telegram.

The period within which the appeal must be entered is fixed at 120 days, counting from the day the decision is delivered or notified (Article 2, paragraph 2).

ARTICLE 29.

If the notice of appeal is entered in the National Court, this Court, without considering the question whether the appeal was entered in due time, will transmit within seven days the record of the case to the International Bureau.

If the notice of the appeal is sent to the International Bureau, the Bureau will immediately inform the National Court, when possible by telegraph. The latter will transmit the record as provided in the preceding paragraph.

When the appeal is brought by a neutral individual the International Bureau at once informs by telegraph the individual's Government, in order to enable it to enforce the rights it enjoys under Article 4, paragraph 2.

ARTICLE 30.

In the case provided for in Article 6, paragraph 2, the notice of appeal can be addressed to the International Bureau only. It must be entered within thirty days of the expiration of the period of two years.

ARTICLE 31.

If the appellant does not enter his appeal within the period laid down in Articles 28 or 30, it shall be rejected without discussion.

qui a statué, ou adressée au Bureau international; celui-ci peut être saisi même par télégramme.

Le délai du recours est fixé à cent vingt jours à dater du jour où la décision a été prononcée ou notifiée (article 2, alinéa 2).

ARTICLE 29.

Si la déclaration de recours est faite devant le tribunal national, celui-ci, sans examiner si le délai a été observé, fait, dans les sept jours qui suivent, expédier le dossier de l'affaire au Bureau international.

Si la déclaration de recours est adressée au Bureau international, celui-ci en prévient directement le tribunal national, par télégramme s'il est possible. Le tribunal transmettra le dossier comme il est dit à l'alinéa précédent.

Lorsque le recours est formé par un particulier neutre, le Bureau international en avise immédiatement par télégramme la Puissance dont relève le particulier, pour permettre à cette Puissance de faire valoir le droit que lui reconnaît l'article 4, 2°.

ARTICLE 30.

Dans le cas prévu à l'article 6, alinéa 2, le recours ne peut être adressé qu'au Bureau international. Il doit être introduit dans les trente jours qui suivent l'expiration du délai de deux ans.

ARTICLE 31.

Faute d'avoir formé son recours dans le délai fixé à l'article 28 ou à l'article 30, la partie sera, sans débats, déclarée non recevable.

Provided that he can show that he was prevented from so doing by *force majeure*, and that the appeal was entered within sixty days after the circumstances which prevented him entering it before had ceased to operate, the Court can, after hearing the respondent, grant relief from the effect of the above provision.

ARTICLE 32.

If the appeal is entered in time, a certified copy of the notice of appeal is forthwith officially transmitted by the Court to the respondent.

ARTICLE 33.

If, in addition to the parties who are before the Court, there are other parties concerned who are entitled to appeal, or if, in the case referred to in Article 29, paragraph 3, the Government who has received notice of an appeal has not announced its decision, the Court will await before dealing with the case the expiration of the period laid down in Articles 28 or 30.

ARTICLE 34.

The procedure before the International Court includes two distinct parts: the written pleadings and oral discussions.

The written pleadings consist of the deposit and exchange of cases, counter-cases, and, if necessary, of replies, of which the order is fixed by the Court, as also the periods within which they must be delivered. The parties annex thereto all papers and documents of which they intend to make use.

A certified copy of every document produced by one party must be communicated to the other party through the medium of the Court.

Toutefois, si elle justifie d'un empêchement de force majeure et si elle a formé son recours dans les soixante jours qui ont suivi la cessation de cet empêchement, elle peut être relevée de la déchéance encourue, la partie adverse ayant été dûment entendue.

ARTICLE 32.

Si le recours a été formé en temps utile, la Cour notifie d'office et sans délai à la partie adverse une copie certifiée conforme de la déclaration.

ARTICLE 33.

Si, en dehors des parties qui se sont pourvues devant la Cour, il y a d'autres intéressés ayant le droit d'exercer le recours, ou si, dans le cas prévu à l'article 29, alinéa 3, la Puissance qui a été avisée, n'a pas fait connaître sa résolution, la Cour attend, pour se saisir de l'affaire, que les délais prévus à l'article 28 ou à l'article 30 soient expirés.

ARTICLE 34.

La procédure devant la Cour internationale comprend deux phases distinctes: l'instruction écrite et les débats oraux.

L'instruction écrite consiste dans le dépôt et l'échange d'exposés, de contre-exposés et, au besoin, de répliques dont l'ordre et les délais sont fixés par la Cour. Les parties y joignent toutes pièces et documents dont elles comptent se servir.

Toute pièce, produite par une partie, doit être communiquée en copie certifiée conforme à l'autre partie par l'intermédiaire de la Cour.

ARTICLE 35.

After the close of the pleadings, a public sitting is held on a day fixed by the Court.

At this sitting the parties state their view of the case both as to the law and as to the facts.

The Court may, at any stage of the proceedings, suspend speeches of counsel, either at the request of one of the parties, or on their own initiative, in order that supplementary evidence may be obtained.

ARTICLE 36.

The International Court may order the supplementary evidence to be taken either in the manner provided by Article 27, or before itself, or one or more of the members of the Court, provided that this can be done without resort to compulsion or penalty.

If steps are to be taken for the purpose of obtaining evidence by members of the Court outside the territory where it is sitting, the consent of the foreign Government must be obtained.

ARTICLE 37.

The parties are summoned to take part in all stages of the proceedings and receive certified copies of the minutes.

ARTICLE 38.

The discussions are under the control of the President or Vice-President, or, in case they are absent or cannot act, of the senior Judge present.

The Judge appointed by a belligerent party cannot preside.

ARTICLE 35.

L'instruction écrite étant terminée, il y a lieu à une audience publique, dont le jour est fixé par la Cour.

Dans cette audience, les parties exposent l'état de l'affaire en fait et en droit.

La Cour peut, en tout état de cause, suspendre les plaidoiries, soit à la demande d'une des parties, soit d'office, pour procéder à une information complémentaire.

ARTICLE 36.

La Cour internationale peut ordonner que l'information complémentaire aura lieu, soit conformément aux dispositions de l'article 27, soit directement devant elle ou devant un ou plusieurs de ses membres, en tant que cela peut se faire sans moyen coercitif ou comminatoire.

Si des mesures d'information doivent être prises par des membres de la Cour en dehors du territoire où elle a son siège, l'assentiment du Gouvernement étranger doit être obtenu.

ARTICLE 37.

Les parties sont appelées à assister à toutes mesures d'instruction. Elles reçoivent une copie certifiée conforme des procès-verbaux.

ARTICLE 38.

Les débats sont dirigés par le Président ou le Vice-Président et, en cas d'absence ou d'empêchement de l'un et de l'autre, par le plus ancien des juges présents.

Le juge nommé par une Partie belligérante ne peut siéger comme Président.

ARTICLE 39.

The discussions take place in public, subject to the right of a Government who is a party to the case to demand that they be held in private.

Minutes are taken of these discussions and signed by the President and Registrar, and these minutes alone have an authentic character.

ARTICLE 40.

If one of the parties does not appear, despite the fact that he has been duly cited, or fails to comply with some step within the period fixed by the Court, the case proceeds without that party, and the Court gives judgment in accordance with the material at its disposal.

ARTICLE 41.

The Court officially notifies to the parties decrees or decisions made in their absence.

ARTICLE 42.

The Court takes into full consideration in arriving at its decision all the facts, evidence, and oral statements.

ARTICLE 43.

The Court considers its decision in private and the proceedings are secret.

All questions are decided by a majority of the Judges present. If the number of Judges is even and equally divided, the vote of the junior Judge in the order of precedence laid down in Article 12, paragraph 1, is not counted.

ARTICLE 44.

The judgment of the Court must give the reasons on which it is

ARTICLE 39.

Les débats sont publics, sauf le droit pour une Puissance en litige de demander qu'il y soit procédé à huis clos.

Ils sont consignés dans des procès-verbaux, que signent le Président et le greffier et qui seuls ont caractère authentique.

ARTICLE 40.

En cas de non comparution d'une des parties, bien que régulièrement citée, ou faute par elle d'agir dans les délais fixés par la Cour, il est procédé sans elle et la Cour décide d'après les éléments d'appréciation qu'elle a à sa disposition.

ARTICLE 41.

La Cour notifie d'office aux parties toutes décisions ou ordonnances prises en leur absence.

ARTICLE 42.

La Cour apprécie librement l'ensemble des actes, preuves et déclarations orales.

ARTICLE 43.

Les délibérations de la Cour ont lieu à huis clos et restent secrètes.

Toute décision est prise à la majorité des juges présents. Si la Cour siège en nombre pair et qu'il y ait partage des voix, la voix du dernier des juges, dans l'ordre de préséance établi d'après l'article 12, alinéa 1, n'est pas comptée.

ARTICLE 44.

L'arrêt de la Cour doit être motivé. Il mentionne les noms

based. It contains the names of the Judges taking part in it, and also of the Assessors, if any; it is signed by the President and Registrar.

ARTICLE 45.

The sentence is pronounced in public sitting, the parties concerned being present or duly summoned to attend; the sentence is officially communicated to the parties.

When this communication has been made, the Court transmits to the National Prize Court the record of the case, together with copies of the various decisions arrived at and of the minutes of the proceedings.

ARTICLE 46.

Each party pays its own costs.

The party against whom the Court decides bears, in addition, the costs of the trial, and also pays 1 per cent. of the value of the subject-matter of the case as a contribution to the general expenses of the International Court. The amount of these payments is fixed in the judgment of the Court.

If the appeal is brought by an individual, he will furnish the International Bureau with security to an amount fixed by the Court, for the purpose of guaranteeing eventual fulfilment of the two obligations mentioned in the preceding paragraph. The Court is entitled to postpone the opening of the proceedings until the security has been furnished.

ARTICLE 47.

The general expenses of the International Prize Court are borne by the Contracting Powers in pro-

des juges qui y ont participé, ainsi que les noms des assesseurs, s'il y a lieu; il est signé par le Président et par le greffier.

ARTICLE 45.

L'arrêt est prononcé en séance publique, les parties présentes ou dûment appelées; il est notifié d'office aux parties.

Cette notification une fois faite, la Cour fait parvenir au tribunal national des prises le dossier de l'affaire, en y joignant une expédition des diverses décisions intervenues, ainsi qu'une copie des procès-verbaux de l'instruction.

ARTICLE 46.

Chaque partie supporte les frais occasionnés par sa propre défense.

La partie qui succombe supporte, en outre, les frais causés par la procédure. Elle doit, de plus, verser un centième de la valeur de l'objet litigieux à titre de contribution aux frais généraux de la Cour internationale. Le montant de ces versements est déterminé par l'arrêt de la Cour.

Si le recours est exercé par un particulier, celui-ci fournit au Bureau international un cautionnement dont le montant est fixé par la Cour et qui est destiné à garantir l'exécution éventuelle des deux obligations mentionnées dans l'alinéa précédent. La Cour peut subordonner l'ouverture de la procédure au versement du cautionnement.

ARTICLE 47.

Les frais généraux de la Cour internationale des prises sont supportés par les Puissances contrac-

portion to their share in the composition of the Court as laid down in Article 15 and in the annexed Table. The appointment of Deputy Judges does not involve any contribution.

The Administrative Council applies to the Powers for the funds requisite for the working of the Court.

ARTICLE 48.

When the Court is not sitting, the duties conferred upon it by Article 32, Article 34, paragraphs 2 and 3, Article 35, paragraph 1, and Article 46, paragraph 3, are discharged by a delegation of three Judges appointed by the Court. This delegation decides by a majority of votes.

ARTICLE 49.

The Court itself draws up its own rules of procedure, which must be communicated to the Contracting Powers.

It will meet to elaborate these rules within a year of the ratification of the present Convention.

ARTICLE 50.

The Court may propose modifications in the provisions of the present Convention concerning procedure. These proposals are communicated, through the medium of the Netherlands Government, to the Contracting Powers, which will consider together as to the measures to be taken.

PART IV.—*Final Provisions.*

ARTICLE 51.

The present Convention does not apply as of right except when the belligerent Powers are all parties to the Convention.

tantes dans la proportion de leur participation au fonctionnement de la Cour, telle qu'elle est prévue par l'article 15 et par le tableau y annexé. La désignation des juges suppléants ne donne pas lieu à contribution.

Le Conseil administratif s'adresse aux Puissances pour obtenir les fonds nécessaires au fonctionnement de la Cour.

ARTICLE 48.

Quand la Cour n'est pas en session, les fonctions qui lui sont conférées par l'article 32, l'article 34, alinéas 2 et 3, l'article 35, alinéa 1 et l'article 46, alinéa 3, sont exercées par une Délégation de trois juges désignés par la Cour. Cette Délégation décide à la majorité des voix.

ARTICLE 49.

La Cour fait elle-même son règlement d'ordre intérieur, qui doit être communiqué aux Puissances contractantes.

Dans l'année de la ratification de la présente Convention, elle se réunira pour élaborer ce règlement.

ARTICLE 50.

La Cour peut proposer des modifications à apporter aux dispositions de la présente Convention qui concernent la procédure. Ces propositions sont communiquées, par l'intermédiaire du Gouvernement des Pays-Bas, aux Puissances contractantes qui se concerteront sur la suite à y donner.

TITRE IV.—*Dispositions finales.*

ARTICLE 51.

La présente Convention ne s'applique de plein droit que si les Puissances belligérantes sont toutes parties à la Convention.

It is further fully understood that an appeal to the International Prize Court can only be brought about by a Contracting Power or the subject or citizen of a Contracting Power.

In the cases mentioned in Article 5, the appeal is only admitted when both the owner and the person entitled to represent him are equally Contracting Powers or the subjects or citizens of Contracting Powers.

ARTICLE 52.

The present Convention shall be ratified and the ratifications shall be deposited at The Hague as soon as all the Powers mentioned in Article 15 and in the Table annexed are in a position to do so.

The deposit of the ratifications shall take place, in any case, on the 30th June, 1909, if the Powers which are ready to ratify furnish nine Judges and nine Deputy Judges to the Court, qualified to validly constitute a Court. If not, the deposit shall be postponed until this condition is fulfilled.

A minute of the deposit of ratifications shall be drawn up, of which a certified copy shall be forwarded, through the diplomatic channel, to each of the Powers referred to in the first paragraph.

ARTICLE 53.

The Powers referred to in Article 15 and in the Table annexed are entitled to sign the present Convention up to the deposit of the ratifications contemplated in paragraph 2 of the preceding Article.

After this deposit, they can at any time adhere to it, purely and simply. A Power wishing to adhere, notifies its intention in writ-

Il est entendu, en outre, que le recours devant la Cour internationale des prises ne peut être exercé que par une Puissance contractante ou le ressortissant d'une Puissance contractante.

Dans les cas de l'article 5, le recours n'est admis que si le propriétaire et l'ayant-droit sont également des Puissances contractantes ou des ressortissants de Puissances contractantes.

ARTICLE 52.

La présente Convention sera ratifiée et les ratifications en seront déposées à La Haye dès que toutes les Puissances désignées à l'article 15 et dans son annexe seront en mesure de le faire.

Le dépôt des ratifications aura lieu, en tout cas, le 30 juin 1909, si les Puissances prêtes à ratifier peuvent fournir à la Cour neuf juges et neuf juges suppléants, aptes à siéger effectivement. Dans le cas contraire, le dépôt sera ajourné jusqu'au moment où cette condition sera remplie.

Il sera dressé du dépôt des ratifications un procès-verbal dont une copie, certifiée conforme, sera remise par la voie diplomatique à chacune des Puissances désignées à l'alinéa premier.

ARTICLE 53.

Les Puissances désignées à l'article 15 et dans son annexe sont admises à signer la présente Convention jusqu'au dépôt des ratifications prévu par l'alinéa 2 de l'article précédent.

Après ce dépôt, elles seront toujours admises à y adhérer, purement et simplement. La Puissance qui désire adhérer notifie par

ing to the Netherlands Government transmitting to it, at the same time, the act of adhesion, which shall be deposited in the archives of the said Government. The latter shall send, through the diplomatic channel, a certified copy of the notification and of the act of adhesion to all the Powers referred to in the preceding paragraph, informing them of the date on which it has received the notification.

ARTICLE 54.

The present Convention shall come into force six months from the deposit of the ratifications contemplated in Article 52, paragraphs 1 and 2.

The adhesions shall take effect sixty days after notification of such adhesion has been received by the Netherlands Government, or as soon as possible on the expiration of the period contemplated in the preceding paragraph.

The International Court shall, however, have jurisdiction to deal with prize cases decided by the National Courts at any time after the deposit of the ratifications or of the receipt of the notification of the adhesions. In such cases, the period fixed in Article 28, paragraph 2, shall only be reckoned from the date when the Convention comes into force as regards a Power which has ratified or adhered.

ARTICLE 55.

The present Convention shall remain in force for twelve years from the time it comes into force, as determined by Article 54, paragraph 1, even in the case of Powers which adhere subsequently.

écrit son intention au Gouvernement des Pays-Bas en lui transmettant, en même temps, l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement. Celui-ci enverra, par la voie diplomatique, une copie certifiée conforme de la notification et de l'acte d'adhésion à toutes les Puissances désignées à l'alinéa précédent, en leur faisant savoir la date où il a reçu la notification.

ARTICLE 54.

La présente Convention entrera en vigueur six mois à partir du dépôt des ratifications prévu par l'article 52, alinéas 1 et 2.

Les adhésions produiront effet soixante jours après que la notification en aura été reçue par le Gouvernement des Pays-Bas et, au plus tôt, à l'expiration du délai prévu par l'alinéa précédent.

Toutefois, la Cour internationale aura qualité pour juger les affaires de prises décidées par la juridiction nationale à partir du dépôt des ratifications ou de la réception de la notification des adhésions. Pour ces décisions, le délai fixé à l'article 28, alinéa 2, ne sera compté que de la date de la mise en vigueur de la Convention pour les Puissances ayant ratifié ou adhéré.

ARTICLE 55.

La présente Convention aura une durée de douze ans à partir de sa mise en vigueur, telle qu'elle est déterminée par l'article 54, alinéa 1, même pour les Puissances ayant adhéré postérieurement.

It shall be renewed tacitly from six years to six years unless denounced.

Denunciation must be notified in writing, at least one year before the expiration of each of the periods mentioned in the two preceding paragraphs, to the Netherlands Government, which will inform all the other Contracting Powers.

Denunciation shall only take effect in regard to the Power which has notified it. The Convention shall remain in force in the case of the other Contracting Powers, provided that their participation in the appointment of Judges is sufficient to allow of the composition of the Court with nine Judges and nine Deputy Judges.

ARTICLE 56.

In case the present Convention is not in operation as regards all the Powers referred to in Article 15 and the annexed Table, the Administrative Council shall draw up a list on the lines of that Article and Table of the Judges and Deputy Judges through whom the Contracting Powers will share in the composition of the Court. The times allotted by the said Table to Judges who are summoned to sit in rota will be redistributed between the different years of the six-year period in such a way that, as far as possible, the number of the Judges of the Court in each year shall be the same. If the number of Deputy Judges is greater than that of the Judges, the number of the latter can be completed by Deputy Judges chosen by lot among those Powers which do not nominate a Judge.

Elle sera renouvelée tacitement de six ans en six ans, sauf dénonciation.

La dénonciation devra être, au moins un an avant l'expiration de chacune des périodes prévues par les deux alinéas précédents, notifiée par écrit au Gouvernement des Pays-Bas, qui en donnera connaissance à toute les autres Parties contractantes.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée. La Convention subsistera pour les autres Puissances contractantes, pourvu que leur participation à la désignation des juges soit suffisante pour permettre le fonctionnement de la Cour avec neuf juges et neuf juges suppléants.

ARTICLE 56.

Dans le cas où la présente Convention n'est pas en vigueur pour toutes les Puissances désignées dans l'article 15 et le tableau qui s'y rattache, le Conseil administratif dresse, conformément aux dispositions de cet article et de ce tableau, la liste des juges et des juges suppléants pour lesquels les Puissances contractantes participent au fonctionnement de la Cour. Les juges appelés à siéger à tour de rôle seront, pour le temps qui leur est attribué par le tableau susmentionné, répartis entre les différentes années de la période de six ans, de manière que, dans la mesure du possible, la Cour fonctionne chaque année en nombre égal. Si le nombre des juges suppléants dépasse celui des juges, le nombre de ces derniers pourra être complété par des juges suppléants désignés par le sort parmi celles des Puissances qui ne nomment pas de juge titulaire.

The list drawn up in this way by the Administrative Council shall be notified to the Contracting Powers. It shall be revised when the number of these Powers is modified as the result of adhesions or denunciations.

The change resulting from an adhesion is not made until the 1st January after the date on which the adhesion takes effect, unless the adhering Power is a belligerent Power, in which case it can ask to be at once represented in the Court, the provision of Article 16 being, moreover, applicable if necessary.

When the total number of Judges is less than eleven, seven Judges form a quorum.

ARTICLE 57.

Two years before the expiration of each period referred to in paragraphs 1 and 2 of Article 55 any Contracting Power can demand a modification of the provisions of Article 15 and of the annexed Table, relative to its participation in the composition of the Court. The demand shall be addressed to the Administrative Council, which will examine it and submit to all the Powers proposals as to the measures to be adopted. The Powers shall inform the Administrative Council of their decision with the least possible delay. The result shall be at once, and at least one year and thirty days before the expiration of the said period of two years, communicated to the Power which made the demand.

When necessary, the modifications adopted by the Powers shall come into force from the commencement of the fresh period.

La liste ainsi dressée par le Conseil administratif sera notifiée aux Puissances contractantes. Elle sera révisée quand le nombre de celles-ci sera modifié par suite d'adhésions ou de dénonciations.

Le changement à opérer par suite d'une adhésion ne se produira qu'à partir du 1er janvier qui suit la date à laquelle l'adhésion a son effet, à moins que la Puissance adhérente ne soit une Puissance belligérante, cas auquel elle peut demander d'être aussitôt représentée dans la Cour, la disposition de l'article 16 étant du reste applicable, s'il y a lieu.

Quand le nombre total des juges est inférieur à onze, sept juges constituent le quorum nécessaire.

ARTICLE 57.

Deux ans avant l'expiration de chaque période visée par les alinéas 1 et 2 de l'article 55, chaque Puissance contractante pourra demander une modification des dispositions de l'article 15 et du tableau y annexé, relativement à sa participation au fonctionnement de la Cour. La demande sera adressée au Conseil administratif, qui l'examinera et soumettra à toutes les Puissances des propositions sur la suite à y donner. Les Puissances feront, dans le plus bref délai possible, connaître leur résolution au Conseil administratif. Le résultat sera immédiatement, et au moins un an et trente jours avant l'expiration dudit délai de deux ans, communiqué à la Puissance qui a fait la demande.

Le cas échéant, les modifications adoptées par les Puisances entreront en vigueur dès le commencement de la nouvelle période.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.[a]

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherlands Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers designated in Article 15 and in the Table annexed.

En foi de quoi les Plénipotentiaires ont revêtu la présente convention de leurs signatures.

Fait à La Haye, le dix-huit octobre mil neuf cent sept, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances désignées à l'article 15 et dans son annexe.

ANNEX TO ARTICLE 15.

Distribution of Judges and Deputy Judges by Countries for each Year of the period of Six Years.

FIRST YEAR.

	Judges.	Deputy Judges.
1	Argentina	Paraguay.
2	Colombia	Bolivia.
3	Spain	Spain.
4	Greece	Roumania.
5	Norway	Sweden.
6	Netherlands	Belgium.
7	Turkey	Persia.

SECOND YEAR.

1	Argentina	Panama.
2	Spain	Spain.
3	Greece	Roumania.
4	Norway	Sweden.
5	Netherlands	Belgium.
6	Turkey	Luxemburg.
7	Uruguay	Costa Rica.

THIRD YEAR.

1	Brazil	Santo Domingo.
2	China	Turkey.
3	Spain	Portugal.
4	Netherlands	Switzerland.
5	Roumania	Greece.
6	Sweden	Denmark.
7	Venezuela	Haïti.

FOURTH YEAR.

	Judges.	Deputy Judges.
1	Brazil	Guatemala.
2	China	Turkey.
3	Spain	Portugal.
4	Peru	Honduras.
5	Roumania	Greece.
6	Sweden	Denmark.
7	Switzerland	Netherlands.

FIFTH YEAR.

1	Belgium	Netherlands.
2	Bulgaria	Montenegro.
3	Chile	Nicaragua.
4	Denmark	Norway.
5	Mexico	Cuba.
6	Persia	China.
7	Portugal	Spain.

SIXTH YEAR.

1	Belgium	Netherlands.
2	Chile	Salvador.
3	Denmark	Norway.
4	Mexico	Ecuador.
5	Portugal	Spain.
6	Servia	Bulgaria.
7	Siam	China.

[a] See at end, Table of Signatures.

TABLE OF SIGNATURES APPENDED TO THE HAGUE THE RESERVA

[S=signed. R=reserved.]

	1 Convention for the pacific settlement of international disputes.	2 Convention respecting the limitation of the employment of force for the recovery of contract debts.	3 Convention relative to the opening of hostilities.	4 Convention respecting the laws and customs of war on land.	5 Convention respecting the rights and duties of neutral powers and persons in case of war on land.	6 Convention relative to the status of enemy merchant ships at the outbreak of hostilities.	7 Convention relative to the conversion of merchant ships into war ships.
1. Germany							
2. United States of America.	S R	S	S	S	S		
3. Argentina	S	S R	S	S	S R	S	S
4. Austria-Hungary							
5. Belgium	S		S	S	S	S	S
6. Bolivia	S	S R	S	S	S	S	S
7. Brazil	S R		S	S	S	S	S
8. Bulgaria	S	S	S	S	S	S	S
9. Chile	S R	S	S	S	S	S	S
10. China							
11. Colombia	S	S R	S	S	S	S	S
12. Cuba	S	S	S	S	S	S	S
13. Denmark	S	S	S	S	S	S	S
14. Dominican Republic	S	S R	S	S	S	S	
15. Ecuador							
16. Spain	S	S	S		S	S	S
17. France	S	S	S	S	S	S	S
18. Great Britain							
19. Greece	S R	S R	S	S	S	S	S
20. Guatemala	S	S R	S	S	S	S	S
21. Haiti	S	S	S	S	S	S	S
22. Italy							

NOTE.—Nos. of Conventions

CONFERENCE CONVENTIONS OF 1907, AND ALSO OF TIONS MADE.

[S=signed. R=reserved.]

8	9	10	11	12	13	14	15
Convention relative to the laying of automatic submarine contact mines.	Convention respecting bombardment by naval forces in time of war.	Convention for the adaptation to naval war of the principles of the Geneva Convention.	Convention relative to certain restrictions with regard to the exercise of the right of capture in naval war.	Convention relative to the creation of an International Prize Court.	Convention concerning the rights and duties of neutral powers in naval war.	Declaration. prohibiting the discharge of projectiles and explosives from balloons.	The final act.
.....							S
S	S	S	S	S		S	S
S	S	S	S	S	S	S	S
.....							S
S	S	S	S	S	S	S	S
S	S	S	S	S	S	S	S
S	S	S	S		S	S	S
S	S	S	S	S	S	S	S
S	S R	S	S	S R	S	S	S
.....							S
S	S	S	S	S	S	S	S
S	S	S	S	S R		S	S
.....	S	S	S	S			S
S R	S	S	S		S R	S	S
.....							S
.....		S	S				S
.....		S	S	S	S		S
.....							S
S	S	S	S		S	S	S
S	S	S	S	S R	S		S
S	S	S	S	S R	S	S	S
.....							S

are those of pages 126-7.

Table of Signatures Appended to the Hague Conference Conven

	1 Convention for the pacific settlement of international disputes.	2 Convention respecting the limitation of the employment of force for the recovery of contract debts.	3 Convention relative to the opening of hostilities.	4 Convention respecting the laws and customs of war on land.	5 Convention respecting the rights and duties of neutral powers and persons in case of war on land.	6 Convention relative to the status of enemy merchant ships at the outbreak of hostilities.	7 Convention relative to the conversion of merchant ships into war ships.
23. Japan							
24. Luxembourg	S		S	S	S	S	S
25. Mexico	S	S	S	S	S	S	S
26. Montenegro	S	S	S	S R	S	S	S
27. Nicaragua							
28. Norway	S	S	S	S	S	S	S
29. Panama	S	S	S	S	S	S	S
30. Paraguay							
31. Netherlands	S	S	S	S	S	S	S
32. Peru	S	S R	S	S	S	S	S
33. Persia	S	S	S	S	S	S	S
34. Portugal	S	S		S	S		S
35. Roumania				S			
36. Russia	S	S	S	S R	S	S R	S
37. Salvador	S	S R	S	S	S	S	S
38. Servia	S	S	S	S	S	S	S
39. Siam	S		S	S	S	S	S
40. Sweden			S	S	S	S	S
41. Switzerland							
42. Turkey							
43. Uruguay	S	S R	S	S	S	S	
44. Venezuela	S		S	S	S	S	S

NOTE.—Nos. of Conventions

tions of 1907, and also of the Reservations Made—Continued.

8	9	10	11	12	13	14	15
Convention relative to the laying of automatic submarine contact mines.	Convention respecting bombardment by naval forces in time of war.	Convention for the adaptation to naval war of the principles of the Geneva Convention.	Convention relative to certain restrictions with regard to the exercise of the right of capture in naval war.	Convention relative to the creation of an International Prize Court.	Convention concerning the rights and duties of neutral powers in naval war.	Declaration prohibiting the discharge of projectiles and explosives from balloons.	The final act.
.....							S
S	S	S	S		S	S	S
S	S	S	S	S	S		S
.....	S	S			S		S
.....							S
S	S	S	S	S	S	S	S
S	S	S	S	S	S	S	S
.....							
S	S	S	S	S	S	S	S
S	S	S	S	S	S	S	S
S	S	S R	S	S R	S R	S	S
.....		S	S			S	S
.....							S
.....	S	S			S		S
S	S	S	S	S R	S	S	S
S	S	S	S		S		S
S R	S	S	S	S R	S R	S	S
.....	S	S		S			S
.....							S R
.....							
S	S	S	S	S R	S	S	S
S	S	S	S		S		S

are those of pages 126–7.

RESERVATIONS.

I. America.—Under reservation of the declaration made in the plenary session of the Conference of October 16, 1907.

Brazil.—With reservation as to article 53, paragraphs 2, 3, and 4.

Chile.—Under reservation of the Declaration formulated with regard to article 39 in the seventh session of October 7 of the First Commission.

Greece.—With reservation of paragraph 2 of article 53.

II. Argentina.—The Argentine Republic makes the following reservations:

1. With regard to debts arising from ordinary contracts between the citizen or subject of a nation and a foreign government, recourse shall not be had to arbitration except in the specific case of a denial of justice by the courts of the country where the contract was made, the remedies before which courts must first have been exhausted.

2. Public loans, secured by bond issues and constituting the national debt, shall in no case give rise to military aggression or the material occupation of the soil of American nations.

Bolivia.—With the reservation stated to the First Commission.

Colombia.—Colombia makes the following reservations: She does not agree to the employment of force in any case for the recovery of debts, whatever be their nature. She accepts arbitration only after a final decision has been rendered by the courts of the debtor nations.

Dominican Republic.—With the reservation made at the plenary session of October 16, 1907.

Greece.—With the reservation made at the plenary session of October 16, 1907.

Guatemala.—1. With regard to debts arising from ordinary contracts between the citizens or subjects of a nation and a foreign government, recourse shall be had to arbitration only in case of a denial of justice by the courts of the country where the contract was made, the remedies before which courts must first have been exhausted.

2. Public loans secured by bond issues and constituting national debts shall in no case give rise to military aggression or the material occupation of the soil of American nations.

Peru.—With the reservation that the principles laid down in this Convention shall not be applicable to claims or differences arising from contracts concluded by a country with foreign subjects when it has been expressly stipulated in these contracts that the claims or differences must be submitted to the judges or courts of the country

II. Salvador.—We make the same reservations as the Argentine Republic above.

Uruguay.—Under reservation of the first paragraph of article 1, because the Delegation considers that arbitration may always be refused as a matter of right if the fundamental law of the debtor nation, prior to the contract which has given rise to the doubts or disputes, or this contract itself, has stipulated that such doubts or disputes shall be settled by the courts of the said nation.

IV. Montenegro.—With the reservation formulated in article 44 of the Regulations annexed to the present Convention and contained in the minutes of the fourth plenary session of August 17, 1907.

Russia.—With the reservations formulated in article 44 of the Regulations annexed to the present Convention and contained in the minutes of the fourth plenary session of August 17, 1907.

V. Argentina.—The Argentine Republic makes reservation of article 19.

VI. Russia.—With the reservations formulated in article 3 and article 4, paragraph 2, of the present Convention, and embodied in the minutes of the seventh plenary session of September 27, 1907.

VIII. Dominican Republic.—With reservation as to the first paragraph of article 1.

Siam.—With reservation of article 1, paragraph 1.

IX. Chile.—With reservation of article 3, formulated during the fourth plenary session of August 17.

X. Persia.—With reservation of the right, recognized by the Conference, to use the Lion and Red Sun instead of and in the place of the Red Cross.

XII. Chile.—With reservation of article 15, formulated at the sixth plenary session of September 21.

Cuba.—With reservation of article 15.

Guatemala.—With the reservations formulated concerning article 15.

Haiti.—With the reservation regarding article 15.

Persia.—With reservation of article 15.

Salvador.—With reservation of article 15.

Siam.—With reservation of aritcle 15.

Uruguay.—With reservation of article 15.

XIII. Dominican Republic.—With reservation regarding article 12.

Persia.—With reservation of articles 12, 19, and 21.

Siam.—With reservation of articles 12, 19, and 23.

XV. Switzerland.—With reservation of Wish No. 1, which the Federal Council did not accept.

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